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Writ Petition No.1245 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.01.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.1245 of 2024
and W.M.P.Nos.1292 and 1294 of 2024**

1. Union of India,
Rep. By Post Master General,
Central Region,
Thiruchirapalli – 622 001.

2. The Superintendent of Post Offices,
Pudukottai Division,
Pudukottai – 622 001.

... Petitioners

Vs.

1. Shri.S.Bhoopathi

2. The Registrar,
The Central Administrative Tribunal,
Chennai Bench, Chennai – 104.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records pertaining to order dated 15.02.2023 passed in Original Application No.1662 of 2023 on the file of the 2nd respondent and quash the same.

For Petitioners : Mr.A.R.Sakthivel
Central Government Standing
Counsel



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ORDER

(Order of the Court was delivered by R.SURESH KUMAR,J.)

This writ petition has been directed against the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.1662 of 2016, dated 15.02.2023.

2. The first respondent joined in service on 18.01.1992, Thereafter, he earned the first promotion on 28.02.1995, therefore that promotion can be set off against the first MACP. Thereafter, the modified scheme of MACP had come into effect from 01.09.2008, even according to the modified scheme, the first MACP would be conferred on 10 years completion of service, second one is after twenty years of service and the third one is after 30 years of service, where the incumbent has stagnated without having any promotion.

3. Therefore from 28.02.1995, the first respondent had been stagnated without having any promotion and he superannuated on 31.08.2018. In between, he has completed 20 years of service in the first



promoted post, therefore, if the first MACP already been set off against the first promotion dated 28.02.1995, with regard to the second and third MACP, which should have been conferred on him on completion of 20 years of total service from 18.02.1992 and 30 years of total service from 18.02.1992 or atleast from completion of 10 years of service from the date of earning the first promotion i.e., dated 28.02.1995 and 20 years from 28.02.1995.

4. In that case, the first 10 years after earning the first promotion i.e., 28.02.1995 could have been completed on 28.02.2005 and thereafter, the second 10 years could have been completed on 28.02.2015, therefore, on 28.02.2015, he would be eligible to get the third MACP.

5. This position has been considered by the Tribunal of-course rightly and had given the following direction:

“15. Therefore, denying the said benefit of III MACP w.e.f 2015 to the application for which he is otherwise eligible and entitled under the Scheme of MACP is bad in law and against policy itself. Hence the impugned orders passed by the respondents dated 18.12.2015 and 21.06.2015 are hereby quashed and set aside. The



respondents are directed to extend the admissible 3rd MACP benefit to the applicant w.e.f 28.02.2015 along with arrears of pay and allowances and other consequential benefits as per the MACP scheme within a period of three months from the date of receipt of a certified copy of this order. In case, the amount is not paid within a period of three months, then without prejudice to any other remedy that the applicant may have, the amount shall carry interest at the rate of 9% per annum.

16. The OA is disposed of accordingly. No order as to costs.”

6. Even though Mr.A.R.Sakthivel, learned Central Government Standing Counsel appearing for the appellant Department has relied upon a specific clarification issued by the postal department to say that, since the modified scheme had come into effect only from 01.09.2008, from that date only, the MACP shall be taken into account, if that has been taken into account i.e., 01.09.2008 on or before 31.09.2018, he cannot earn the third MACP, since he retired on 31.08.2018 he was not eligible to get the third MACP.



7. The said contention is not countenanced because the MACP scheme is only a modified scheme, even before which, the ACP scheme was there, under which only this financial upgradation would be given for those who have been stagnated without promotion for 10 years as first MACP and second 10 years i.e., after 20 years the second MACP and the third ten years i.e., after completion of total service of 30 years without having any promotion will be conferred the third MACP.

8. Here in the case in hand, the first respondent earned the first promotion on 28.02.1995, therefore the first MACP has been set off.

9. Insofar as the second and third MACP is concerned, since he has not earned any promotion as he has superannuated on 31.08.2018, before which he has rendered 20 years of service from the date of his first promotion i.e., from 28.02.1995, the second and third MACP should have been conferred on him and the second MACP should have been on 28.02.2005 and the third MACP on 28.02.2015 and this has been considered and rightly directed by the Tribunal in the impugned order, therefore, we do not find any error in the said approach of the Tribunal and the conclusion reached by the Tribunal in passing the impugned



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order. Hence, this writ petition fails and accordingly, it is dismissed. No costs. Connected miscellaneous petitions are closed.

(R.S.K.,J.)

(K.B., J.)

22.01.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
mp

To

The Registrar,
The Central Administrative Tribunal,
Chennai Bench, Chennai – 104.



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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