



W.P.No.6782 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

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1.Union of India rep by,
Chief Post Master General,
Office of the Chief Post Master General,
Chennai - 600 002.

2.The Post Master General,
Chennai City Region,
Chennai - 600 002.

3.The Senior Superintendent of Post Offices,
Tambaram Division,
Tambaram – 600 045.

... Petitioners

Vs.

1.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai - 600 104.

2.V.Santha

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari to call for the records of 1st respondent in O.A.No.330 of 2018, dated 13.06.2019, in allowing the O.A. filed by the 2nd respondent and quash the same.



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For Petitioner : Mr.K.S.Jeyaganeshan, SPC
For R1 : Tribunal
For R2 : No appearance

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The lis on hand has been instituted challenging the order dated 13.06.2019, passed by the Central Administrative Tribunal, Chennai Bench, in O.A.No.330 of 2018.

2.The second respondent was regularly appointed as Postal Assistant on 30.07.1974. She was granted Time Bound One Promotion with effect from 30.07.1990 and the Biennial Cadre Review Promotion with effect from 01.01.2001. She was offered regular promotion to the post of LSG Supervisor on 02.05.2008. She declined her promotion to the post of LSG Supervisor on 24.02.2009 due to her incapacitation as a result of road accident sustained by her. The fact remains that the second respondent continued to work in the cadre of LSG Supervisor on 24.02.2009. She completed 30 years of service on 30.07.2004 and therefore, she was eligible for III financial upgradation under MACP scheme, which was implemented with effect from 01.09.2008. It is not in dispute that the second respondent satisfied all the conditions stipulated



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under the MACP scheme. She made a representation to the authorities to grant MACP III financial upgradation with effect from 01.09.2008. Since it was not considered, she filed O.A.No.1641 of 2017 and the Tribunal disposed of the OA by directing the second respondent to submit a fresh representation. In pursuance of the directions of the Tribunal, the second respondent submitted fresh representation and the petitioners herein rejected the representation by an order dated 28.12.2017. Hence, the second respondent filed O.A.No.330 of 2018 and the Tribunal considered the issue and allowed the original application filed by the second respondent and declared that the second respondent is entitled to get III MACP with effect from 01.09.2008 or the date she completed 30 years of service whichever is later.

3.The learned Senior Panel Counsel appearing on behalf of the writ petitioners would submit that the second respondent was granted promotion to the higher post on 02.05.2008. However, she relinquished her promotion on 24.02.2009. An employee who was offered promotion, if chosen to decline the same, she is not entitled for III MACP in view of the conditions stipulated in clause 25 of MACP scheme. Relying on Clause 25, the learned Senior Panel Counsel would submit that the second respondent is not eligible to avail the III MACP benefits.



4. In support, the learned Senior Panel Counsel relied on the judgment of the Supreme Court in the case of *Deepak Aggarwal Vs. Keshav Kaushik* reported in (2013) 5 SCC 277, wherein, clause 25 has been interpreted as follows:

.....

c. A reading of Para 25 of MACPS dated 18.09.2009 as a whole, would also suggest that it intended to cover only acts of refusal of promotion post introduction of MACPS, for while providing the consequence for refusal it not only provides that refusal would result in denial until promotion is accepted but also, provides that the second and third upgradation would be deferred. Thus, the refusal is intended to cast its shadow on all three upgradations which again appears to be indicative of the fact that Para 25 of MACPS was only intended to cover refusal of promotion post introduction of MACPS.

“ 7. It is thus clear that acts of refusal of promotion prior to introduction of MACP would not attract the restriction under Para 25 of MACPS. Admittedly, the refusal of the promotion was prior to MACPS and thus the same would not attract the limitation in Para 25 of MACPS.



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8.In the light of the above view that we have taken, it may not be necessary to examine the 1st question and the same is left open.

*9.In the result, the writ petition is dismissed.
No costs. Consequently, the connected
miscellaneous petition is closed.”*

5.It is not in dispute that the second respondent was eligible for III financial upgradation under MACP scheme on 30.07.2004 itself since she had completed 30 years of service. MACP scheme came into effect from 01.09.2008. Regarding clause 25, plain reading would reveal that if a regular promotion has been offered but was refused by the employee before becoming entitled to financial upgradation, no financial upgradation shall be allowed as such an employee has not been stagnated due to lack of opportunities.

6.The very purpose and object of MACP scheme is to ensure that the financial upgradation is granted to the employees, who are all stagnated in a particular cadre without any further promotion opportunities. Therefore, the issue to be considered in the present case is whether the second respondent was



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stagnated or the promotion granted prior to MACP scheme and her relinquishment made is to be taken into consideration for the purpose of refusing the benefit of III MACP. As far as clause 25 is concerned, it is unambiguous that the regular promotion must be offered, but it was refused by the employee before becoming entitled.

7. In the present case, the second respondent became eligible for III MACP scheme on completion of her 30 years of service on 30.07.2004. Therefore, after completion of 30 years also the stagnation continues. As on the date of implementation of MACP Scheme with effect from 01.09.2008, she was working in the same cadre despite the fact that the promotion order was passed on 02.05.2008. Since the second respondent not joined in the promoted post and relinquished her promotion on 24.02.2009, her eligibility as on 01.09.2008, for securing III MACP benefits was granted by the Central Administrative Tribunal.

8. The case on hand is an exception in view of the fact that the second respondent met with a road accident and was on medical leave during the relevant point of time. She was granted promotion to the higher post on 02.05.2008. Since she was under treatment, she could not accept the promotion



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order. However, the authorities competent had not taken any action either to withdraw the promotion or allow the salary applicable to the promotional post to the second respondent. Therefore, during the period of leave, she was allowed to continue only in the stagnated cadre and not in the promotional post. The authorities also had not initiated any further action. Since the second respondent was not in a position to join in any other place, she had chosen to relinquish her promotion on 24.02.2009, which was accepted by the department. Therefore, the date of refusal of promotion is to be taken into consideration with effect from 24.02.2009. Till such time, the second respondent was holding the lower post in which she was stagnated for number of years.

9.The eligibility of an employee is the point to be considered. In the present case, the second respondent completed 30 years of service on 30.07.2004 and therefore, she was eligible to get III MACP benefits as on 01.09.2008, the date on which MACP scheme was implemented. Since the second respondent satisfied the eligibility for availing the benefit of III MACP, we do not find any infirmity in the order passed by the Central Administrative Tribunal.



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10. Accordingly, the order impugned stands confirmed and the Writ Petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions, if any, are also closed.

[S.M.S., J.]

[M.J.R., J.]

12.12.2024

Index: Yes/No

Speaking/Non-speaking order

sli

To

The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai - 600 104.



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S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

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