

November 11, 2025
Sl. No.22
Court No.1
s.biswas

WPCT 10 of 2025

The Union of India and others
vs.
Pradip Kumar Ghosh and others

Mr. Rabi Prosad Mookherjee
Ms. Sarda Sha

... for the petitioners

Mr. Ujjal Ray

... for the respondents

Per, Sujoy Paul, A.C.J.

1. Mr. Rabi Prosad Mookherjee, learned counsel for the petitioners and Mr. Ujjal Ray, learned counsel for the respondents are present. Heard the learned counsel for the parties on admission.
2. This petition filed under Article 227 of the Constitution of India takes exception to the order of the Central Administrative Tribunal (Tribunal), Kolkata Bench, Kolkata dated 03.07.2024 passed in O.A. 350/789/2017 whereby the Tribunal allowed the Original Application (O.A.) filed by the applicants therein and directed the respondents to provide benefit of 2nd and 3rd financial upgradation to the applicants therein under the Modified Assured Progressive Scheme (MACP) from the date of their entitlement.
3. Learned counsel for the department submits that the applicants initially filed O.A. 350/793/2013 which was disposed of by the Tribunal on 19.12.2016 by directing the petitioners to resubmit their representations and in turn, the

department was directed to decide the grievances of the applicants within a period of two months. In turn, the speaking order dated 09.02.2017 (Annexure P-5) was issued by rejecting the claim of the applicants for grant of benefits under the MACP scheme.

4. Aggrieved, the applicants filed instant O.A. 350/789/2017 before the Tribunal. Since the said matter was decided in favour of the applicants therein, present writ petition is filed on the ground that speaking order clearly shows that the applicants who were initially working as Goods Guard, had earned 3 promotions/financial upgradation till they reached the stage of Mail/Express Guard. The promotions are – (i) from Goods Guard to Senior Goods Guard, (ii) from Senior Goods Guard to Passenger Guard, (iii) from Passenger Guard to Mail/Express Guard. Thus, employees were not entitled to get any further financial upgradation under the MACP scheme.
5. In addition, the learned counsel for the department fairly submitted that pursuant to the recommendation of 6th Pay Commission, the pay scale of promotional post stood merged into one single pay band of Rs.9300-34000+Grade Pay of Rs.4200/-.

6. Learned counsel for the department submits that the Tribunal has failed to consider that the applicants therein actually got 3 promotions/financial upgradations and no fault can be found in the speaking order aforesaid, where the claim of financial upgradation was rejected because of promotions earned by the applicants. However, during the course of hearing, learned counsel for the department fairly submitted that the pay scales of Goods Guard, Senior Goods Guard, Passenger Guard, Senior Passenger Guard and Mail/Express Guard, stood merged into one single pay band of Rs.9300-34000+Grade Pay of Rs.4200/-.
7. Learned counsel for the respondents supported the order of learned Tribunal and urged that in fact because of merger of pay scales of promotional posts into one pay scale, the employees continued to stagnate on the same pay scale. Therefore, they were entitled to get the benefit of MACP scheme.
8. No other point is pressed by learned counsel for the parties.
9. We have heard the parties on admission.
10. A careful perusal of order of Tribunal shows that the Tribunal based its decision/findings on the orders passed by different Benches of the Tribunal. Ernakulum Bench in a batch of O.A.s

including O.A. 484 of 2011 decided on 22.02.2012, Allahabad Bench in O.A.1241/2011 and Patna Bench in O.A.51/27/2014 decided on 14.01.2015 took the view in favour of the employees by holding that because of merger of pay scales of promotional posts, they were stagnated and therefore, entitled to get the benefit of financial upgradation under the MACP.

11. On careful reading of impugned order of Tribunal further shows that the order of Allahabad Bench of the Tribunal passed in O.A. 1241/2011 was unsuccessfully challenged by the department before the Allahabad High Court in C.W.J.C. No.18244/2013. The Supreme Court also affirmed the order of the Tribunal. This aspect was also noted by Patna Bench of the Tribunal while deciding the O.A.51/27/2014.
12. A conjoint reading of the analysis portion of the orders passed by different Tribunals and reproduced in Para 9 of the impugned order shows that similarly situated persons approached various Tribunals and Tribunals decided in their favour.
13. On a specific query from the Bench, learned counsel for the department could not point out as to what is the distinguishing feature because of which present respondents can be given a different treatment than the treatment given to

their counterparts/similarly situated employees working in other States. More so, when one such order of Allahabad Bench of Tribunal in O.A. 1241/2011 got a stamp of approval from Allahabad High Court in C.W.J.C. 18244/2013. Learned counsel for the department could not point out whether the order of Allahabad High Court in the aforesaid case was disturbed by the Supreme Court.

14. Thus, nothing could be pointed out which persuades us to take a different view than the view taken by the Tribunal in the impugned order. Since the order of Tribunal is based on similar orders passed by different Benches, in our opinion, the Tribunal has not committed any error of law which warrants interference by this court. More so, when one such order of Allahabad Tribunal was unsuccessfully challenged by Railway Administration before the Allahabad High Court.

15. The scope of interference under Article 227 of the Constitution of India is limited. If Tribunal has taken a plausible view, it cannot be interfered with merely because another view is possible. Apart from this, it is noteworthy that because of merger of pay scales of promotional posts, the employees were stagnating and they were rightly held to be entitled for financial upgradation. In

absence of establishing any perversity or illegality,
the admission is declined. The petition is
dismissed.

(Sujoy Paul, A.C.J.)

[Chaitali Chatterjee (Das), J.]