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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 90 OF 2025  
IN  
WRIT PETITION NO. 18612 OF 2024

Union of India thru the General Manager,  
Central Railway and Anr. ...Petitioners  
Versus  
Shri Kamlesh Kumar Nagpure ...Respondent

**Mrs. Anjali Helekar** a/w. Adv. Anil Kaladharan, Adv. Astha Arya for  
the Petitioner - UOI  
**Mr. S.K. Tripathi**, for the Respondent.

CORAM: SUMAN SHYAM &  
M. M. SATHAYE, JJ.

DATED: 17<sup>th</sup> NOVEMBER, 2025.

**PC:-**

1. Heard learned Counsel for the parties. Perused the record.
2. Original writ petitioner – Union of India/Railway is seeking review of the order dated 13/01/2025 by which order above writ petition was dismissed. The dispute relates to grant of benefit of Modified Assured Career Progression (MACP) Scheme to the Respondent with effect from 15/06/2014 instead of 04/01/2017.
3. The order under review is mainly based on an advisory dated 28/03/2011 about counting of training period for grant of financial benefits under MACP Scheme. The Petition is dismissed

on the basis of said advisory read with Rule 63 of the Railway Protection Force Rule, 1987.

4. Learned Counsel for the Petitioner submitted that despite their best efforts, a subsequent advisory issued by the Jt. Director / Sec.(E), Government of India, Ministry of Railways (Railway Board) bearing No. 2009/Sec(E)/PM-2/6 (MACP), New Delhi dated 29/04/2011 was not available when the writ petition was heard or reply to original application (OA) was filed. She submitted that under advisory dated 29/04/2011, the earlier advisory dated 28/03/2011 has been withdrawn and it is clarified by Pay Commission Directorate that 'training period of pre-appointment nature' shall not be taken into reckoning for MACP scheme purpose. A copy of the said subsequent advisory dated 29/04/2011 is produced on record at Exh. C. She submits that therefore the order under review is based on factually incorrect position, which is sufficient ground for review.

5. *Per contra*, learned Counsel for the Respondent opposed the review petition on the ground that despite an undertaking before the Central Administrative Tribunal, Mumbai (the Tribunal) in Contempt Petition No. 190 of 2024, this Review Petition is filed. He submitted that the statement made by advocate for the Petitioners before CAT must be held as binding. He submitted that this document could have been produced before the order under review was passed. He relied upon the judgment of **Smt. Lavanya C. & Anr. vs. Vittal Gurudas Pai Since deceased by Lrs. & Ors. (Civil Appeal No. 13999 of 2024 arising out of SLP(C) No. 13875 of**

2021) in support of his submission that advocate's undertaking is binding on party.

6. We have considered the submissions.

7. During the pendency of this Review Petition, on 23/09/2025, learned counsel for the Respondent had relied upon the order dated 17/02/2025 passed by the Tribunal in Contempt Petition No. 190 of 2024, which recorded that the counsel for the present Petitioners (Respondents therein) made a statement that Petitioners have taken 'a policy decision' to implement the order of the Tribunal and time was sought for compliance. On this order being shown, this Court directed the concerned Authority to file affidavit-in-reply, placing on record true and correct facts regarding policy decision as recorded in said order.

8. Pursuant to said order, the Chief Personnel Officer (IR), Central Railway, Mumbai CSTM has filed an additional affidavit dated 03/11/2025 stating as under:

"3. xxx I say that when the contempt Petition filed by the Respondent before the Honourable Central Administrative Tribunal was listed on 17.02.2025, I had instructed the officers attending the court to inform the Panel Advocate to seek some time on the ground that the matter is pending before me for advice. I say that the said Contempt Application was adjourned. I say that unfortunately the statement of the Panel Advocate being incorrectly recorded xxx"

"5. xxx I thus reiterate that there was no policy decision taken to give benefits as mentioned the Hon'ble Tribunal's order dated 16.04.2024 when the order dated 17.02.2025 was passed."

9. Record indicates that apart from filing contempt petition before the Tribunal, the Respondent had filed contempt petition No. 225 of 2025 in this Court also, which was withdrawn by the Respondent on 05/08/2025. Be that as it may.

10. In our limited jurisdiction, we cannot enter into the factual dispute as to whether the Petitioners' counsel before the Tribunal was properly instructed or not. However, the fact remains that what is recorded by the Tribunal on 17/02/2025, has been categorically denied by the concerned Authority, taking a clear stand that on 17/02/2025, the panel Advocate was asked to seek some time and that there was no such policy decision.

11. Considering the fact that the advisory dated 28/03/2011 which formed the basis of order under review, has been specifically withdrawn and a document regarding such withdrawal has been produced before us, in the form of subsequent advisory dated 29/04/2011, we find it appropriate and sufficient ground to review our order, in order to make sure that an order on merit is passed based on true and correct record.

12. A statement of an advocate about purported policy decision has been denied before us by filing specific affidavit. It is not a statement about any singular act, but pertains to policy decision of the Government. Therefore the argument based on such statement need not detain us any further. For that reason, the judgment in the matter of **Smt. Lavanya C. & Anr. (supra)** will not help the Respondent.

13. Review Petition is accordingly **allowed**. The order dated 13/01/2025 passed in WP/18612/2024 is recalled. The said writ petition is restored to the file of this Court, to be placed before the Bench haing appropriate roster presently, for hearing and disposal in accordance with law. **Review Petition is disposed of in above terms.** No order as to costs.

(M. M. SATHAYE, J.)

(SUMAN SHYAM, J.)