



W.P.No.16882 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.No.16882 of 2025
and W.M.P.No.19141 of 2025

1.The Union of India,
Rep. by the Secretary,
Ministry of Communications and IT,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi – 110 001.

2.The Chief Post Master General,
Tamil Nadu Circle,
Anna Salai, Chennai – 600 002.

3.The Deputy Director,
Foreign Post,
Chennai – 600 001.

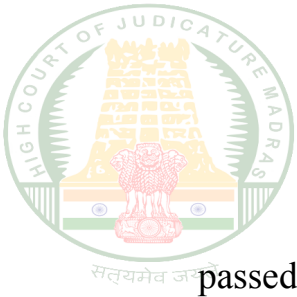
... Petitioners

Vs.

M.Ramesh

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the Tribunal in its impugned order dated 11.10.2023 in O.A.No.956 of 2017



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passed by the Central Administrative Tribunal, Chennai Bench and quash the same.

For Petitioner : Mr.M.Karthikeyan

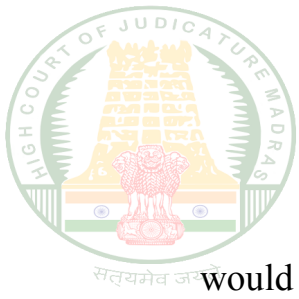
ORDER

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

In view of the final order to be passed in this Writ Petition, notice to the respondent is hereby dispensed with.

2. The respondent herein, who initially joined the Department of Posts as an Extra Departmental Packer (ED Packer) on 27.11.1981, was promoted to the cadre of Group - D on 01.07.1982. During his service, he was granted Time Bound One Promotion (TBOP) and after serving for 30 years, he retired from service on 30.06.2012.

3. The Department of Posts had introduced Time Bound One Promotion (TBOP) with effect from 30.11.1983 and Biennial Cadre Review (BCR) with effect from 01.10.1991. As per BCR Scheme, Group - D employees, among others, who have completed 26 years of service,



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would be eligible for pay up-gradation. Thereafter, on 18.09.2009, TBOP and BCR were withdrawn with effect from 01.09.2008 and replaced with Modified Assured Career Progression Scheme (MACPS). As per MACP Scheme, 3 financial up-gradations were introduced to the employees who had completed 10, 20 and 30 years of service.

4. The respondent herein was given financial up-gradation under the BCR Scheme on 01.01.2009. However, the Department was of the view that he is eligible for MACP Scheme - II only with effect from 01.09.2008 and since the BCR Scheme was withdrawn with effect from 01.09.2008, the financial up-gradation extended to him under BCR with effect from 01.01.2009 was cancelled. Thus, the respondent herein, who had completed 30 years of service, was neither extended with BCR benefits nor the MACP - III benefit. When he had given a representation on 23.03.2017 claiming for his entitlement of BCR and MACP - III benefits, his request was rejected through an order of the third petitioner herein dated 06.06.2017. The reason assigned in the rejection letter for denying the BCR benefits is that the respondent had not completed 26 years of service as on 30.06.2008, as claimed by him, but had completed the same

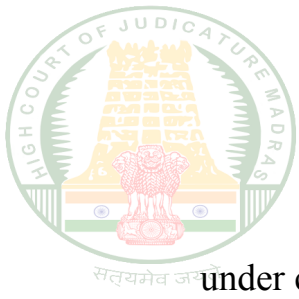


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only on 24.07.2008, which includes 23 days of non-qualifying service and therefore, BCR was granted with effect from 01.01.2009. However, on introduction of the MACP Scheme, TBOP and BCR benefits were withdrawn with effect from 01.09.2008. Likewise, to the claim for MACP - III benefit, it was stated that the respondent had non-qualifying service of 24 days and therefore, would become eligible for pay up-gradation only from 25.07.2012 and not on 30.06.2012. Since the respondent had superannuated on 30.06.2012 itself, he was declared to be ineligible.

5. When the respondent had challenged the rejection letter dated 06.06.2017 before the Central Administrative Tribunal (CAT) through O.A.No.956 of 2017, his application came to be allowed on 11.10.2023 by holding that he had completed 26 years of service well before the introduction of the MACP Scheme and therefore, would be entitled for financial up-gradation under the BCR Scheme. Further, the CAT had also observed that the respondent had rendered the minimum of 10 years of service as on the date of superannuation and therefore, the shortfall of 24 days can be condoned by taking into account that he had put in long and dedicated services from the year 1981 onwards. This order of CAT is



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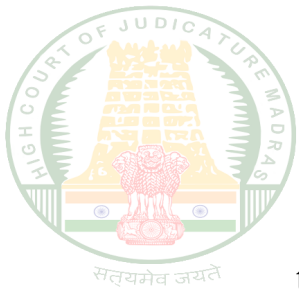
under challenge in the present Writ Petition.

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6. The learned Standing Counsel appearing for the petitioners submitted that in order to qualify for the financial up-gradation both under BCR, as well as MACP Schemes, the employee should have put in 26 years of qualifying service and 10, 20 and 30 years of qualifying service for the pay up-gradation. According to him, qualifying service does not include the period of *dies non* and since the respondent had 23 days and 24 days of non-qualifying service under the BCR and MACP Schemes respectively, he was ineligible for both the benefits.

7. We do not endorse the submissions of the learned Standing Counsel for the petitioners for the following reasons:-

- (a) The only ground on which the respondent's claim for pay up-gradation under the BCR and MACP Schemes was rejected, is that he had a shortfall of 23 days and 24 days for claiming the benefits respectively.
- (b) Both the BCR, as well as MACP Schemes, made no reference to the non-counting of the period of *dies non* for the purpose of extending



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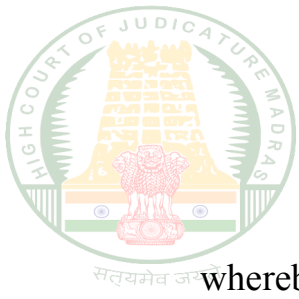
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the benefits under the schemes.

(c) If the period of *dies non* was included in the service of the respondent herein, he would have completed 26 years of service as on 30.06.2008 to claim pay up-gradation under BCR and 30 years of service as on 30.06.2012 for financial up-gradation under MACP - III. Both under the BCR and MACP Schemes, there was no reference to reckoning of the period of *dies non* for counting the qualifying service.

8. As observed earlier, after the respondent had completed 26 years of service on 30.06.2008, he became eligible for pay up-gradation under BCR. Likewise, on the date of his retirement i.e. on 30.06.2012, he has completed 30 years of service, thus, qualifying under pay up-gradation MACP - III.

9. Though the respondent had put in 30 years of service, he neither had the benefit of pay up-gradation of BCR nor the MACP - III. After 5 years of his retirement, the Department came out with the clarification on reckoning the period of *dies non* through a letter dated 24.12.2013,



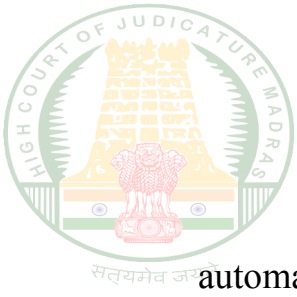
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whereby it was clarified that the *dies non* period will not be counted as regular service for the purpose of grant of financial up-gradations. It is solely on this clarificatory letter, which came after almost 5 years from the respondent's retirement, the Department had denied his claim for pay up-gradation under both the schemes.

10. The belated clarification on reckoning the period of *dies non*, after almost 5 years from the retirement of the respondent cannot be put against him, when he was otherwise eligible to receive both the benefits under BCR and MACP on completion of 26 years and 30 years of his service respectively.

11. In our considered view, the clarification on reckoning the period of qualifying service through the letter dated 24.12.2013, can only act prospectively since the benefits under BCR and MACP had already been extended to the employees, who had completed the required services with effect from 01.10.1991 in BCR and 01.09.2008 in MACP respectively. Thus, when 23 days of the alleged non-qualifying service and 24 days of the alleged non-qualifying service are not reckoned, the respondent would



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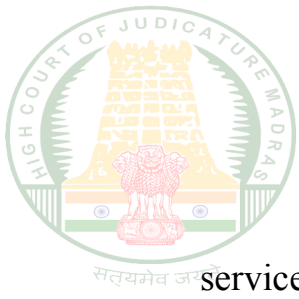
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automatically become entitled for pay up-gradation under both the schemes as on the date of his retirement.

12. Thus, we held that the clarification letter dated 24.12.2013, on reckoning the period of *dies non*, for extension of the financial up-gradation under the schemes, can only operate prospectively. Consequently, it requires to be held that the respondent herein would be entitled for the pay up-gradation under both BCR and MACP - III Schemes.

13. In the light of the above observations and findings, the order dated 06.06.2017, which was impugned before the Central Administrative Tribunal, cannot be sustained. In this view of the matter, no interference is required to the order of the Central Administrative Tribunal dated 11.10.2023 made in O.A.No.956 of 2017.

14. Accordingly, the Writ Petition stands dismissed with a direction to the petitioners herein, to restore the BCR benefits to the respondent herein, with effect from date on which he has completed 26 years of



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service, as well as the pay up-gradation under MACP - III Scheme, with effect from 30.06.2012, when he had completed 30 years of service, by passing suitable orders. Such orders shall also include revision of his pay scales and pensionary benefits. The petitioner shall pass such orders and disburse the monetary benefits, as expeditiously as possible, in any event within a period of one (1) month from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

[M.S.R, J.]

[V.L.N, J.]

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Index: Yes

Speaking order

Internet: Yes

Neutral Citation: Yes

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