IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE ACTING CHIEF JUSTICE P. SAM KOSHY
AND
THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION No.17273 of 2016
(CNR No. HBHC010180702016)

Reserved on: 17.03.2026 ***Pronounced on : 03.11.2026***
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Between:

S.Ramachandraiah ***...Petitioner***

AND

The Union of India & others. ***...Respondents***

ORDER: *(per the Hon'ble Sri Justice Narsing Rao Nandikonda)*

Heard ***Mr. Ch.Ravinder,*** learned counsel for the petitioner; ***Mr. N. Bhujanga Rao,*** learned Deputy Solicitor General of India appearing for respondents. Perused the record.

2. This Writ Petition is filed assailing the order dated 22.10.2014 passed by the Central Administrative Tribunal, Hyderabad Bench (herein after referred to as 'the Tribunal') in

O.A.No.365 of 2012, whereby the original application was filed by the appellants herein, with the following reliefs:

> *"(a) to call for the records pertaining to the impugned Order No. (i) B1/MACP-III/Hyd.GPO/2011, dated 12.08.2011 and (ii) C/22/Sup.Ret./S.R.Rev. DCRG/2011-12, dated 08.09.2011 of the 4th Respondent and (iii) ST/MACP/Hyd.GPO/2010, dated 25.10.2011 of the 2nd respondent, denying the MACP-II financial upgradation with effect from 01.09.2008 on the fictitious ground that as the applicant has availed 3 promotions, and therefore entitled only for the 3rd financial upgradation on completion of 30 years of service from the entry grade and set aside the impugned Orders dated 12.08.2011, 08.09.2011 and 25.10.2011 of 4th and 3rd c) Respondents respectively, declaring the same as arbitrary, illegal, unwarranted, misconceived and in violation of Articles 14 and 16 of the Constitution of India; (b) to direct the Respondents to grant 2nd financial upgradation (MACP-II) to the applicant with effect from 01.09.2008 with grade pay of Rs.4200/on completion of 20 years of regular service to grant MACP-III on completion of 30 years of service granting grade pay of Rs.4600/- with effect from 30.03.2009 as provided the Scheme of MACP."*

3. The brief facts of the case are that the petitioner joined in Direct Entry Grade as Postman in Govt. service at Hyderabad GPO on 11.03.1979 and on completion of 3 years

of regular service; he had qualified in the Limited Departmental Competitive Examination (LDCE). Thereafter, he appeared for the departmental examination for promotion/appointment to the cadre of postal Assistant, which was held on 31.10.1982 and joined the Hyderabad as Postal Assistant on 30.08.1983 and retired from service on attaining the age of superannuation with effect from 31.05.2009. The DPC met on 02.07.2010, however the screening committee did not recommend any Financial upgradation under Modified Assured Career progression Scheme (MACP) on the grounds that the petitioner had already availed 3 promotions viz., i) Group D to Postman ii) Postman to postal Assistant and iii) Time Bound Onetime Promotion (TBOP) Postal Assistant Promotion in the P.A. cadre. Aggrieved by the same, the applicant submitted a representation on 7.7.2010 to the 4th Respondent (Chief Postmaster, GPO, Hyderabad) quoting the relevant rules on the subject.

4. Consequently, upon consideration of the representation a Review DPC was constituted on 10.08.2010 and MACP-II orders were issued on 10.08.2010 granting grade pay of

Rs.4,200/- with effect from 1.9.2008 along with his junior officials working in Postal Assistant Cadre duly considering his entry grade in the department. The above orders granting MACP-II were implemented by the respondent No.4 i.e., Chief Postmaster, GPO, Hyderabad and the pay arrears arising out of the said financial upgradation amounting to Rs.47,171/- were paid to the petitioner . Accordingly the case of the petitioner was forwarded to the Accounts Officers/Pensions, in the office of Director of Accounts (Postal) for sanction of revision of Pension, Gratuity and difference of communication etc.

5. The Accounts Officer/Pensions, instead of implementing the orders of granting MACP benefits to the applicant disputed the petitioner's eligibility for any promotion under MACPS and returned the papers on the ground that the petitioner had already availed 3 promotions from Group D to Postman, Postman to Postal Assistant and TBOP Promotion in P.A. cadre and further ordered the recovery of the Pay and allowances already paid while in service from the applicant, who had already retired from service on 31.05.2009.

6. Thereafter, Respondent No.4 mechanically issued orders for recovery of the Pay and allowances already drawn pursuant to grant of MACP-II benefits which were already paid earlier consequent on grant of the same by the competent authority. At the same time, the orders issued granting financial benefits under MACP-II had not been either withdrawn or cancelled by any competent authority. Further, no such show cause notice was issued before initiatingthe proposed recovery which is in violation of principles of natural justice.

7. It is further submitted that the clarification orders were brought to the notice Respondent No.4 was also forwarded to the Assistant Accounts Officer, by Respondent No.5 and on seeing the same, Respondent No.5 had sought for supply of copies of appointment orders of the applicant in the cadres of Postman/Postal Assistant. The request was made after the petitioner's retirement, when the pension records were already available with the petitioner. Inspite of these developments, the Respondent No.5 reiterated in his letter No.10196 dated 3.2.2011, that the case of the petitioner was referred to Directorate to clarify on the issue of entry grade

duly intimating the applicant which was promptly acted upon by the Chief Postmaster, GPO, Hyderabad vide his letter No.Acct-Ill dated 14.02.2011. Ultimately, the Directorate was pleased to clarify the same in favour of the petitioner, vide clarificatory orders dated 25.04.2011 pursuant to the representation submitted by the applicant on 28.02.2011 to the Respondent No.5 in respect of MACP.

8. Inspite of the above clarifications available, respondent No.5 continued to insist that the applicant was eligible only for MACP-III financial upgradation on his retirement with the same grade pay of Rs.4,200/- instead of grade pay of Rs.4,600/- with effect from 31.03.2009 and therefore was insisting on ordering recovery of excess Pay and allowances as a result of revised regulation of MACP-III financial upgradation. It is further submitted that a Review DPC was constituted once again on 05.08.2011 and the orders granting MACP-II were reviewed without giving any notice that too after completion of one year period having availed the benefits of the so called MACP-II benefits that were granted to the applicant and issued proceedings reproducing in verbatim the Financial upgradation granted under MACP-II

treating the same as "Financial Upgradation under MACP-III, giving the very same grade pay of Rs.4,200/- which was already given to the applicant under M&CP-II, instead of granting grade pay of Rs.4600/- with effect from 31.3.2009 even after completion of total service of 30 years by the applicant to which the applicant is entitled for the grade pay of Rs.4600/-. Inspite of several representations, the case of the applicant was not considered in right perspective and the applicant was denied of MACP-III. Being aggrieved by the said proceedings, the petitioner preferred O.A.No.365 of 2012 and the same was partly allowed on 22.10.2014 and the operative portion of the order reads as under:

> *"7. Having heard the arguments of the learned counsel on both sides and also perusing the material on record, we hold that the facts of this case are similar to the facts in O.A.No.382/2011 with O.A.No.353/2011 and O.A.No.354/2011, which have already been decided by the Jodhpur Bench of the Central Administrative Tribunal. Consequently, we are inclined to follow the orders of the Coordinate Bench that the applicant's regular service for the purpose of MACP would commence from the date of his joining as a Postal Assistant and also that his appointment as Postal Assistant is not in the nature of promotion but a career*

advancement after qualifying in the LDCE. We further hold that for the purpose of counting stagnation, the date of joining of the applicant as Postal Assistant alone is relevant and that the applicant would be eligible for grant of MACP-II with Grade Pay of Rs.4200/with effect from 01.09.2008. Thus, this OA is allowed as above, subject, however, to the final outcome of the Writ Petition No.11336/2012 reported to be pending before the Hon'ble High Court of Rajasthan. No order as to costs."

9. Aggrieved by the order passed in O.A.No.365 of 2012, the present writ petition contending that he had retired from service w.e.f., 31.05.2009. As the petitioner had retired prior to the issuance of MACP orders, the service book of the petitioner was forwarded to the accounts office, Director of Accounts (Postal), to incorporate the MACP-II particulars duly revising the pay of the petitioner taking into account, the grant of financial upgradation under MACP-II. The role of the Accounts Officer is only to incorporate these particulars in the service particulars and to grant revision of pension to the petitioner along with commutation, difference of gratuity, etc. The duly constituted Screening Committee which considered the cases of officials eligible for MACP-II had already considered and recommended the grant of financial

upgradation under MACP-II and consequently the respondents have acted upon and the consequential benefits had also been paid to the petitioner.

10. Learned counsel for the petitioner contended that, the office of the Director of Accounts (Postal), A.P. Circle, Hyderabad arbitrarily examined the issue and rejected the recommendations of the Screening Committee which granted the financial upgradation under MACP-II to the petitioner and on the contrary, suggested that excess pay and allowance paid and difference in allowances and leave encashment may be recovered from the retired Official's from pension and credit particulars may be intimated to petitioner, vide his letter No.5783/P.111/C.No.107/99-16/MACP-II/S.R. dated 27-09-2010. And the respondent No.5, ordered the recovery of the MACP-II benefits which was already granted to the petitioner, and further to recover such payments already paid, aggrieved by the same, the petitioner submitted his representation dated 05-10-2010 to the respondent No.2 explaining the issues relating to MACP-II, denying the same to the petitioner and ordering recovery thereof.

11. Learned counsel for the petitioner further contended that representation dated 05.10.2010 was also forwarded by the 5th respondent along with clarifications that are sought thereon, vide Memo No.Acct.III/Pen.Digs/S.R./2010-11 dated 26.10.2010. Even before receiving the received from the 5th respondent, without issuing any show cause notice, and when the MACP-II benefits were already granted and paid to the petitioner, for extraneous consideration, the 4th respondent had arbitrarily issued recovery orders determining the total recoverable at Rs.47,171/- and intimated the petitioner of the said proposed recovery that too after retirement of the petitioner and the learned Tribunal without considering the same, and without assigning any reason held that the petitioner is entitled for grant of MACP-II with grade pay of Rs.4,200/- w.e.f., 01.09.2008 only without recording any finding regarding the grant of MACP-III w.e.f., 30.03.2009, therefore the order of the learned Tribunal is liable to be set aside.

12. Per contra, learned counsel for the respondents submits that upon grant of TBOP in the year 1999, the Petitioner was placed in the higher pay scale applicable to the cadre of

Postal Assistant, which is at grade pay of Rs.2200/- at the relevant entry stage. It is relevant to submit that the MACP Scheme clearly stipulates that financial upgradation shall be granted only to the next immediate Grade Pay in the hierarchy of the revised pay bands, and not after the grant of MACP upgraded to Rs.4200 which is the next grade pay. It is further argued that in the present case, irrespective of whether the upgradation is treated as MACP-II or MACP-III, the Petitioner cannot be placed in a Grade Pay higher than what is permissible in the normal hierarchy. It is relevant to submit that any further claim for a higher Grade Pay would amount to bypassing the structured hierarchy and thereby resulting in an impermissible jump in the grade pay hierarchy. Therefore, on a strict application of the MACP framework, the placement of the petitioner in Grade Pay Rs.4200 is the only legally sustainable outcome.

13. Learned counsel for the respondents further submitted that the grant of TBOP in 1999 constitutes a financial upgradation that must necessarily be taken into account while determining eligibility under the MACP Scheme. The MACP Scheme provides for financial upgradations at intervals

of 10, 20 and 30 years of regular service, but specifically contemplates that past promotions and financial upgradations are to be adjusted against these entitlements. In other words, MACP is not intended to operate in isolation, but as a replacement for earlier time bound schemes, ensuring that the total number of financial upgradations does not exceed the prescribed limit. It is relevant to submit that if the MACP is granted without considering the timeline of grant of TBOP (granted in 1999), it would result in the Petitioner becoming entitled to an additional MACP financial upgradation within a short span. This would thereby conferring an unintended and excessive financial benefit. Such an interpretation would defeat the very structure of the MACP Scheme, which is designed to balance career progression while preventing multiple overlapping upgradations. Therefore, the TBOP granted to the Petitioner must be treated as one of the financial upgradations, and the subsequent MACP benefit must be calibrated accordingly. If the Petitioner's claim is examined by reckoning service afresh from the initial date of appointment, without factoring in the TBOP, it would result in the Petitioner becoming entitled to

an additional upgradation within a compressed timeframe, thereby conferring a double benefit for the same period of service.

14. In the circumstances stated above, the financial upgradation granted to the petitioner is in accordance with the settled position of law. Therefore, the writ petition is liable to be dismissed.

The points that can be considered before this Court are:

1. *"Whether the respondents were justified in issuing impugned order dated 24.09.2010 directing recovery of excess pay and allowances paid to the petitioner from his pension"*

2. *Whether the impugned order, dated 22.10.2014 warrant interference under Article 226 of the Constitution of India?"*

Point No.1 (Excess Recovery)

15. Before proceeding further, the question as to whether an amount paid to the government servant in excess of his entitlement can be recovered at a subsequent stage on the ground that they are not entitled to such excess payment, has came up for consideration before the Hon'ble Supreme Court on several occasion. The Hon'ble Supreme Court in the

case of ***State of Punjab v. Rafiq Masih (White Washer)***[1] etc. decided on 18.12.2014 laid down the circumstances under which Courts should not permit recovery by the Government.. The relevant portion of the judgment reads as under:-

> *"12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*
>
> *(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
>
> *(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
>
> *(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
>
> *(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he*

[1] 2015 (4) SCC 334

should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

16. Applying the aforesaid principles to the facts and circumstances of the present case, we find that the petitioner had already retired from service by the time the recovery proceedings were initiated. In such circumstances, we are of the considered opinion that the recovery of the alleged excess amount from the petitioner, being a retired employee, is impermissible in law. Consequently, no amount is liable to be recovered from the petitioner.

Point No.2 (Fixation of MACP)

17. As regards the fixation of MACP-III, it is evident that the Screening Committee, which met on 05.08.2011, reviewed the financial upgradation granted to the petitioner and sanctioned MACP-III with a Grade Pay of Rs.4,200/- with effect from 31.03.2009. The validity and correctness of the said financial upgradation, therefore, require consideration in

the light of the principles laid down by the Division Bench of the Rajasthan High Court at Jodhpur Bench in ***Union of India and others v. Bhanwar Lal Regar,*** in Civil Writ Petition No.11336 of 2012, decided on 10.08.2015. The operative portion of the said judgment reads as follows:

> *"Having considered the argument advanced we do not find any merit with the same. Learned counsel appearing on behalf of the appellant on asking again and again failed to point out any provision for promotion to the post of Postman/Sorting Assistant. On the other hand, from perusal of the orders of appointment to the post of Postal Assistant/Sorting Assistant, it is apparent that the respondent original applicants faced an examination, may that be a limited competitive examination, i.e. nothing but direct recruitment. Their joining as Postal Assistants was not at all in the nature of promotion, hence their services for the grant of benefits under modified assured career progression has to be counted only from the date they were appointed as Postal Assistants/Sorting Assistants. The services rendered by them on earlier post prior to their appointment as Postal Assistants/Sorting Assistants are absolutely inconsequential for the purpose of grant of modified assured career progression. At the cost of repetition it shall be appropriate to mention that the petitioners failed to point out any provision for appointment to the post of Postal Assistant/Sorting Assistant by way of promotion and to point out any order of appointment making appointment of the original applicants on*

the post concerned by way of promotion. The writ petitions, thus, are having no merit, hence dismissed. The orders passed by the Central Administrative Tribunal, Jodhpur Bench, Jodhpur in respective original applications stand affirmed."

18. It is pertinent to mention that the judgment rendered by the Rajasthan High Court in Writ Petition No.11336 of 2012 and the connected matters was challenged by the Union of India and others before the Hon'ble Supreme Court. However, the Hon'ble Supreme Court, vide order dated 10.08.2018 in SLP (Civil) Diary No.23260 of 2018, dismissed the said Special Leave Petition. Consequently, the judgment of the Rajasthan High Court attained finality and lends support to the view taken in the present case. Therefore, the principles laid down therein can safely be applied to the facts and circumstances of the present case.

19. It is further relevant to note that the learned Tribunal, while passing the impugned order dated 22.10.2014, followed the order passed by the Central Administrative Tribunal, Jodhpur Bench, dated 22.05.2012, which was subsequently affirmed by the Rajasthan High Court vide order dated 18.05.2015. The said decision attained finality upon

dismissal of SLP (Civil) Diary No.23260 of 2018 by the Hon'ble Supreme Court on 10.08.2018. In view of the foregoing discussion and the settled legal position, we find no infirmity or illegality in the order passed by the learned Tribunal warranting interference by this Court. Consequently, the impugned order dated 22.10.2014 is liable to be upheld.

20. Accordingly, Point No.1 is answered in favour of the petitioner. In view of the principles laid down by the Hon'ble Supreme Court in Paragraph No.12 of the judgment in State of ***Punjab v. Rafiq Masih (White Washer) (cited supra)***, this Court is of the considered opinion that the recovery sought to be effected from the petitioner is impermissible in law. Consequently, the recovery order passed by the respondents is liable to be set aside and is, accordingly, set aside. The respondents are further directed to refund the amount, if any, already recovered from the petitioner.

21. As regards Point No.2, this Court finds no ground warranting interference with the impugned order dated

22.10.2014 passed by the learned Tribunal. Accordingly, the said impugned order is hereby confirmed.

22. With the above observations, the writ petition is partly allowed. There shall be no order as to costs.

All pending miscellaneous applications, if any, shall stand closed.

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P. SAM KOSHY, ACJ

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NARSING RAO NANDIKONDA, J

Date: 03.11.2026
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