

(2023) 12 CAT CK 0005

In the Central Administrative Tribunal

Case No : Original Application No. 330, 01125 Of 2021

Akram Abdullah

APPELLANT

Vs

Union Of India, Through The General Manager, North Central
Railway, Prayagraj. & Ors

RESPONDENT

Date of Decision : 14-12-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 12 CAT CK 0005

Hon'ble Judges : Om Prakash VII, Member (J); Mohan Pyare, Member (A)

Bench : Division Bench

Advocate : Jaswant Singh, Saurabh

Final Decision : Allowed

Judgement

Om Prakash VII, Member (J)

1. The present original application has been filed by the applicant under section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

“(a) The Hon’ble Tribunal may graciously be pleased to issue order or direction in the nature of mandamus directing the respondents to treat the services of the applicant spend on training after appointment as qualifying service for the purpose of granting 3rd M.A.C.P with all consequential benefits accrued thereof viz. fixation of pay, arrears along with 12% interest as such arrears.

(b) To issue any other suitable order or direction which this Hon’ble Court may deem fit and proper under the facts and circumstances of the case.

(c) To award the cost of the application in favour of the applicant”.

2. The brief facts of the case are that applicant was initially appointed as Apprentices Train Examiner on 25.07.1991 through RRB in proper selection mode. The applicant was sent for training from 25.07.1991 to 26.06.1993 and during the period, the applicant was granted stipend of Rs. 1320 + DA. After

completion of training, the applicant was appointed as Train Examiner and transferred from Delhi to Allahabad Division on 27.01.1994. Applicant was granted 1st MACP on 1.9.2008 in the grade of Rs. 4600/- and 2nd MACP on 31.01.2014 and was granted grade pay of Rs. 4800/-. When applicant is about to reach 30 years of his service, he moved an application dated 03.09.2021 for grant of 3rd MACP but the request of the applicant has been refused, hence he filed the present OA.

3. We have heard learned counsel for the parties and perused the record.

4. Submission of the learned counsel for the applicant is that applicant was granted 1st MACP on 1.9.2008 and 2nd MACP on 31.1.2014 and when he gets to reach 30 years of service, applicant submitted an application dated 03.09.2021 and respondents without cogent reason rejected the request of the applicant for grant of 3rd MACP. Learned counsel for the applicant submitted that the training period for qualifying service for the purpose of financial upgradation after completion of training period has to be counted for grant of MACP. This issue has been adjudicated by the CAT Cuttack Bench in OA NO. 260/00485/2021 East Coast Railway Engineers Association and others Vs. Union of India and others decided on 15.11.2023. Learned counsel for the applicant further submitted that the case of the applicant is similar to the aforesaid case, thus applicant will be satisfied if similar order is given in the instant OA as well.

5. Learned counsel for the respondents refuting the arguments advanced by the learned counsel for the applicant argued that he has rightly been denied the request of applicant for grant of 3rd MACP as he was granted 1st MACP on 01.09.2008 and 2nd MACP on 31.01.2014, therefore, he is not entitled for any further financial upgradation. Learned counsel for the respondents further argued that eligibility for grant of 3rd MACP would be adjudged on the basis of Railway Board instruction No. 101/2009. Learned counsel for the respondents submitted that according to rule, applicant is not eligible for grant of 3rd MACP on 25.07.2021. Learned counsel further argued that the aforesaid case law relied upon by the applicant is not applicable in the case of applicant. There is no illegality and infirmity in the impugned order, thus OA is liable to dismissed.

6. We have considered the rival submissions of the learned counsel for the parties and perused the entire pleadings.

7. From perusal of order passed by the CAT Cuttack bench in OA NO. 260/00485/2021 East Coast Railway Engineers Association and others Vs. Union of India and others decided on 15.11.2023, Cuttack Bench has decided the controversy 'whether the training period would be counted for the purpose of grant of financial upgradation. In para 9 of the aforesaid case, Cuttack Bench has specifically held as under:-

"9. In view of the settled law, quoted above, it is held that the applicant is entitled to count their qualifying service for the purpose of financial upgradation under MACP w.e.f their respective dates of joining in the training after being

qualified through RRB and joining in the post on their successful completion of training. Accordingly, the impugned order of rejection dated 18.8.2021 (A/17) is hereby quashed and the respondents are directed to revisit the grant of financial upgradation under MACP by counting the qualifying period of 10, 20 and 30 years from their initial date of joining and accordingly, fix their pay as per rules and pay them the differential amount within a period of 180 days from the date of receipt of a copy of this order”.

8. In the instant case, applicant was initially appointed as Apprentices Train Examiner on 25.07.1991. He was sent for training from 25.07.1991 to 26.06.1993 and after successful completion of training, applicant was posted as Junior Engineer – II at Allahabad Division. Thus, the present case is squarely covered by the aforesaid judgment of Cuttack Bench wherein the Cuttack bench has specifically held that applicant is entitled to count their qualifying service for the purpose of financial upgradation under MACP w.e.f their respective dates of joining in the training after being qualified through RRB and joining in the post on their successful completion of training.

9. Thus, relying upon the judgment passed by the CAT, Cuttack Bench the O.A. is liable to be allowed. Accordingly, the O.A. is allowed and impugned order dated 03.09.2021 is set aside. Respondents are directed to reconsider and decide the claim of the applicant, for grant of benefit of financial upgradation under the MACP Scheme, in view of the judicial pronouncements noted above. If the applicant is similarly situated to the applicants in the aforementioned case, he be granted the relevant benefits within a period of 4 months from the date of receipt of certified copy of this order. All associated MAs stand disposed of. No order as to costs.