
(2017) 12 GAU CK 0043
In the Gauhati High Court
Case No : 3762 of 2017

Bharat Barman

APPELLANT

Vs

Union of India and Ors.

RESPONDENT

Date of Decision : 11-12-2017

Acts Referred:

Citation : (2017) 12 GAU CK 0043

Hon'ble Judges : Ajit Singh, Manojit Bhuyan

Bench : DIVISION BENCH

Advocate : U.K. Nair, N. Shyamal, S.C. Keyal

Final Decision : Dismissed

Judgement

1. Heard Mr. U.K. Nair, learned senior counsel assisted by Ms. N. Shyamal for the petitioner as well as Mr. S.C. Keyal, learned Assistant S.G.I. for the respondents.
2. This writ petition is directed against the Order dated 14.07.2016 passed by the Central Administrative Tribunal, Guwahati Bench in O.A. No. 040/00182/2015.
3. The petitioner is employed at the Micro, Small & Medium Enterprises (MSME) - Development Institute at Guwahati. He had approached the Tribunal challenging (i) Memorandum dated 22.04.2015 which indicated that he would be eligible for second financial upgradations under MACP Scheme with effect from 10.06.2016 on completion of 20 years of regular service from the date of his regularisation which is 10.06.1996, (ii) letter dated 07.04.2015 which was by way of clarification of his eligibility to the second financial upgradation with effect from 10.06.2016 (iii) for counting his past service from the date of passing typing test i.e. 23.01.1991 till the date of his regularisation on 10.06.1996 and, (iv) for granting the first benefit under the Assured Career Progression Scheme with effect from 23.01.2003 and the second benefit under MACP with effect from 23.01.2011. The reliefs sought for did not find favour with the Tribunal and, hence, the present writ petition.

4. Before proceeding further it would be apt to observe that in order to deal with the problem of stagnation and hardships faced by employees due to lack of adequate promotional avenues, the Govt. of India in the Ministry of Personnel, Public Grievances & Pensions had issued Office Memorandum dated 09.08.1989 bringing in the Assured Career Progression Scheme for grant of two financial upgradations to the Government employees mentioned therein on completion of 12 years and 24 years of regular service respectively. The expression "Regular Service" was shown to mean the eligibility service counted for regular promotion in terms of the relevant recruitment/service rules. The said Scheme was modified by Office Memorandum dated 19.05.2009 by means of the Modified Assured Career Progression Scheme (MACPS) whereby decision was made for granting three financial upgradations at intervals of 10, 20 and 30 years of continuous regular service. "Regular Service" for the purpose of the MACPS, inter alia, is shown to commence from the date of joining of a post in direct entry grade on a regular basis, either on direct recruitment basis or on absorption/re-employment basis. It was also indicated that service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning.

5. Without going into greater details, suffice to say that the petitioner had earlier instituted O.A. No. 85 of 1996 before the Central Administrative Tribunal, Guwahati Bench, which was allowed on 21.01.1999 with directions to the respondents to regularise service of the petitioner in the post of Lower Division Clerk within two months. Following the directions of the Tribunal, the petitioner was appointed to the post of Lower Division Clerk vide Order dated 18.03.1999, followed by letter dated 29.06.2001 by which the earlier Order dated 18.03.1999 was treated as withdrawn and the service of the petitioner was held to be regularised from 10.06.1996. For all intents and purposes, therefore, the petitioner's service got regularised with effect from 10.06.1996. Significant to note, at no point of time the petitioner have questioned or challenged the validity of the date of regularisation on ground that the same was required to be read from any earlier period.

6. From the undisputed facts above, the adjudication of the present case has largely narrowed down, so much so, the financial upgradations to which the petitioner was made entitled to, either under the ACP Scheme or MACP Scheme, could only be made available by counting his regular service with effect from 10.06.1996 and not from any other date. The first benefit under the ACP Scheme which was given on 10.06.2008 on completion of 12 years from the date of regular service and, thereafter, the second financial upgradation under the MACP Scheme on completion of 20 years of continuous regular service, has been correctly granted to the petitioner without any flaw.

7. Having held as above, we find no merit in this writ petition. Accordingly, the same stands dismissed by imposing a cost of Rs. 1,000/- on the petitioner for unnecessarily litigating on the issue when he himself accepted his regularisation

as effective from 10.06.1996 without any qualms. Ordered accordingly.