
(2026) 02 CAT CK 1594

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 980 Of 2013

Surendra Pal

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 13-02-2026

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2026) 02 CAT CK 1594

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

Bench : Division Bench

Advocate : Manoj Dhruvanshi, Bashisht Tiwari

Final Decision : Dismissed

Judgement

Mohan Pyare, Member (A)

1. Present Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

“(i) The Hon’ble Tribunal may graciously be pleased to quash the impugned order dated 21.03.2013 issued by respondents and direct the respondents to grant the benefits of all three (3) up-gradations under M.|A.C.P. Scheme as the applicant has already completed the 30 years of service.

(ii) The Hon’ble Tribunal may graciously be pleased to direct the respondents to pay arrears of the 1st 2nd and 3rd upgradations from the date becomes due with interest.

(iii) any other writ or direction which the Hon’ble Tribunal deems fit and proper in the circumstances of the case.

(iv) Cost of the application may also be awarded in favour of the applicant. ”

2. Brief facts of this case are that the applicant was initially appointed as Casual Labour on 1.11.1977 and his Casual Card No. is 127604 since then he had

worked 1696 days without any break under the control and supervision of the respondents. It is stated that after completion of continuous 120 days working, the applicant attained temporary status as per Para 2005 of Indian Railway Established Manual Volume-II (1990. Edu.) or Old Para 2511 of IREM Vol-II. The applicant was medically examined on 30.8.1984 and declared fit in BI for the post of Khalasi in the Grade of 196-232 and was posted against the Permanent Post of Helper Khalasi. The Railway Board issued instruction No. E (NG) II /71/GL/83 dated 11.5.1973 regarding status of Casual Labour with Temporary status. The Railway Board issued instruction No. E(NG) II /78/CL/12 dated 14.10.80 which provides the entitlements and privileges to the casual laborers. The respondents issued a letter No. E /13/ SCR ADEN/FZB/96 dated 02.02.2007 for regularization to the applicant as helper in the grade Rs. 196-232 w.e.f. 20.8.1992 according to a panel No. 154 which was made already on 30.8.1992. The Government of India introduced and implemented the VI Pay Commission Report and benefits of the same were given to all Central Government Employees including Railway Employees. The Ministry of Railways (Railway Board) introduced Modified Assured Career Progress Scheme (MACPS) on 10.6.2009, which stipulates that Railway Employees would get 3 up-gradation after completion of 10 years, 20 years and 30 years of Regular Service. The applicant has claimed that he is entitled for 3rd up-gradation as has already completed more than 30 years of service, therefore, he sent a representation to the authorities for grant of up-gradation under MACPS on 16.04.2012 through registered post but no response was made. When the respondents did not make any response then the applicant sent a reminder to the respondents on 13.09.2012. The Railway Board again issued letter No. UP-V/ 2009/ ACP / 2 dated 4.12.2009 which provides that 50% of temporary status casual labour service on absorption in regular employment may be taken into account towards the minimum service of 10, 20 and 30 years of service for the grant of benefit under M.A.C.P.S. on the analogy. Being aggrieved from the inaction of the respondents, the applicant filed Original Application No. 1769 of 2012 which was disposed of at the admission stage with the direction to decide the representation of the applicant. The applicant communicated the orders to the respondents with a registered post after which the impugned order dated 21.03.2013 has been passed rejecting the claim of the applicant.

3. Submission of learned counsel for the applicant is that as the applicant was appointed on the permanent post of Khalasi after medical examination and the temporary status would automatically be gained by him after completion of 120 days of working period as per Rule and the law settled by different courts, his temporary status must be counted as per the Railway Board's letter dated 14.10.1980 and 50% of temporary status as counted for pensionary benefit should also be counted for the benefit under MACP Scheme. He states that the Railway Board itself clarified and provided benefits of the MACP Scheme by issuing the letter dated 04.12.2009. Thus, he argued that the impugned order is contradictory to the record and non-speaking and the so-called grant of only 2

MACPs is totally against the record of service book as well as the rules and he is entitled for the benefit of 3rd MACP.

4. Submission of learned counsel for the respondents is that the applicant has not worked for a continuous period of 120 days because on calculating the period from 26.04.1978 to 24.07.1978, the casual labour card shows the applicant's attendance of 87 and a half days. Therefore, there is break in service of the applicant because of which he has not completed a period of 30 years of continuous service, therefore, the applicant is denied the benefit of 3rd MACP. The applicant was medically examined under B-1 category on 30.08.1984 and subsequently, he was given Modified Pay Scale (CPC) w.e.f. 15.11.1984 but he was not regularized and posted against regular post, therefore, the claim of 30 years period will not be counted from the date of medical examination. It is submitted that in pursuance of the Railway Board letter No. 215/2009 dated 4.12.2009 for counting of the service, half of the period of CPC i.e. from 15.11.1984 to 19.08.1992 and subsequently after regularization w.e.f. 19.08.1992 full service period is counted as qualifying service period for pensionary benefits. Therefore, calculating service period during CPC from 15.11.1984 to 19.08.1992 applicant's qualifying service become 3 years 10 months 13 days (excluding 7 days absent period) and further after regularization his service period is counted as 20 years 9 months 12 days (excluding 28 days absent period) from 20.08.1992 to 30.06.2012. Therefore, the applicant's total regular service period as on 30.06.2012 is calculated as 24 years 6 months 25 days, therefore, the applicant has been given benefit of second MACP but he is not entitled for 3rd MACP till date. It is submitted that the applicant has been granted the benefit of MACP in pursuance to Railway Board's letter dated 4.12.2009 by adding 50% period of CPC (Temporary Status) and full period of regular service rendered by the applicant, calculating 10 years, 20 years and 30 years for grant of MACP.

5. We have considered the rival submissions of learned counsel for the parties and perused the entire documents on record.

6. During the course of argument, learned counsel for the applicant in addition to his submissions, has placed reliance on the judgment of this Tribunal in O.A./982/2011 (Surya Bhan Singh) dated 07.07.2025, wherein direction was given to count 100% of the temporary status service for the purpose of MACP. The relied upon portion reads as under:-

"6. We have considered the rival submissions of learned counsel for the parties and perused the entire documents on record.

7. Learned counsel for the applicant has placed reliance on the judgment of the Hon'ble Apex Court in the case of Union of India and ors vs. Sarju [Special Leave to Appeal (Civil) No(s). 20041/2008] decided on 30.09.2011; Judgement of the Hon'ble Apex Court in the case of Union of India and Others vs. Rakesh Kumar and Others (2018) 1 Supreme Court Cases (L&S) 51 decided on 24.03.2017; and

the judgement of the Principal Bench of this Tribunal in the case of Shri Prem Pal Singh vs. Union of India in O.A./1921/2014 decided on 29.05.2014. The judgements of the Hon'ble Apex Court referred to by the applicant is regarding the counting of temporary status service for the purpose of pension and the Principal Bench of this Tribunal in the case of Prem Pal Singh (supra) has directed in its order as under:

"In view of the above position, this O.A. is allowed and the impugned order dated 02.01.2013 is quashed and set aside. Consequently, we direct the respondents to count the entire 100% temporary status casual service and 50% of casual service of the applicant as qualifying service for the purpose of granting the benefits under MACP, pensionary benefits etc..."

8. RBE No.101/2009 on the subject on recommendation of the Sixth Central Pay Commission-Modified Assured Career Progression Scheme (MACPS) for Railway employees provides in paragraph 9 as under:

" 9. 'Regular service' for the purpose of the MACPs shall 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. Service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning..."

9. On the subject of Financial Up-gradation under the ACP Scheme – as per Railway Board No. RBE No. 181/2004, No. PC-V/2004/ACP/1 dated 17/08/2004 to which the respondents have referred in the impugned order dated 12.04.2011,"Entire temporary status service of Substitutes followed by regularisation without break may be taken into account towards the minimum service of 12/24 years for the purpose of grant of benefit under the ACP Scheme".

10. Furthermore, RBE 36/2010 dated 25.02.2010 provides as under:

2. Further, on demand from both the federations that the entire service of the substitutes on their absorption in regular service may be reckoned for MACPS purposes, the matter has been carefully considered by the Board. It is found that unlike casual labours whose 50% of temporary status service counts for pensionary benefits, temporary status service in full of the substitutes counts for pensionary benefits. It has, therefore, been decided that the entire temporary status service of substitutes followed by regularization without break may be taken into account towards the minimum service of 10,20 and 30 years for the purpose of grant of benefit under the MACP Scheme.

11. Against the argument of the learned counsel for the respondents that the work of the applicants was intermittent in nature and they have not worked continuously, learned counsel for the applicant has argued that as per Railway Board's circulars, when casual labour is discontinued due to completion of work or further non-availability of work and employed later, the intervening gap will not be treated as break. This has also been acknowledged by the Hon'ble Madras

High Court in the case of Union of India vs Central Administrative Tribunal decided on 06.03.2019 in W.P. 676 of 2018.

12. Taking into view, the aforesaid facts and discussion, the claim of the applicants for counting of 100% of their temporary status period for the purpose of grant of the benefit under MACP is justified and the O.A. is liable to be allowed. Accordingly, the O.A. is allowed. Impugned order dated 12.04.2011 is hereby set aside. The respondents are directed to count the full (100%) temporary service period of the applicants individually for the purpose of MACP and grant the applicants the benefit of third MACP from the dates it falls due to them as a consequence thereof. The arrears accruing therefrom should be paid to the applicants within a period of four months from the date of receipt of certified copy of this order.

13. All associated M.A.s also stand disposed of. No costs."

7. In the above quoted judgement and order, this Tribunal has mainly relied on RBE 36/2010 dated 25.02.2010 and the judgement of the Principal Bench of this Tribunal in the case of Shri Prem Pal Singh vs. Union of India in O.A./1921/2014 decided on 29.05.2014 while directing to count the full temporary period service for the purpose of MACP. In the present case, the respondents are counting the period of temporary status from 15.11.1984 to 19.08.1992 on the basis of regular service rendered by the applicant during which he has worked without any break in service as per Railway Board's letter no.215/2009 dated 04.12.2009. Moreover, while the respondents have admitted to counting the 50% period of temporary status of the applicant as per Railway Board's letter no.215/2009 dated 04.12.2009, they have also brought out attention to RBE No.33/2021 dated 30.04.2021 on the subject of Modified Assured Career Progression Scheme for Railway Employees-Clarification enclosing the DOP&T's OM.F. No. 22034/4/2020-Estt.(D) dated 05.04.2021 which states as under:-

"Item No.6:

Counting of 50% of service rendered by casual labour who attained temporary status for reckoning the 10, 20 and 30 years of service under the MACPS (Item No.5 of Minutes of the meeting of Joint Committee held on 15.9.2010).

Decision:

As per para 5 (v) of the Appendix pertaining to the Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 50% of the service rendered under temporary status is to be counted only for the purpose of retirement benefits after their regularization. The temporary service rendered does not count for any other purposes. Moreover, under the ACPS also, no provision was made for counting of temporary service as 1st and 2nd financial upgradation was being granted to an employee on completion of 12/24 years of regular service. Therefore, the proposal cannot be agreed to. Thus, action on this item is treated as closed.

With effect to the retrospective application of the aforesaid clarification of the Railway Board, learned counsel for the respondents has further placed reliance on the judgement of this Tribunal in O.A./1465/2012 (Vijay Kumar Gahlod and ors vs. Union of India and ors) dated 17.10.2025 which has referred to the judgement of the Hon'ble Apex Court in Civil Appeal No. 6859 of 2021 (Union of India & Ors Vs. Mudrika Singh) wherein it has been held that when an amendment is purely clarificatory or declaratory in nature, it is deemed to operate retrospectively. The relevant portion is quoted below:-

6.1 During the course of hearing, the learned counsel for the respondents also relied upon the judgment dated 03.12.2021 of the Hon'ble Apex Court passed in Civil Appeal No. 6859 of 2021 (Union of India & Ors Vs. Mudrika Singh), in which the Hon'ble Apex Court has also addressed the nature of amendment to service rules holding that a clarificatory amendment can be deemed to have a retrospective effect, para 23 of the judgment reads as under:

"23. An amendment to a statute or to statutory rules may often be clarificatory in nature. It is clarificatory in the sense that it expressly recognises a power that already vests in the authority. In those circumstances, when an amendment is purely clarificatory or declaratory in nature, it is deemed to operate retrospectively. For instance, a Constitution Bench in Shyam Sunder v. Ram Kumar held that an amending act or a declaratory act need not explicitly mention its declaratory nature to be operative retrospectively. Speaking on behalf of the Constitution Bench, VN Khare, J. (as he then was) noted: (SCC p. 49, para 39.)"

8. The impugned order dated 21.03.2013 is as under:-

9. What is indisputable is that RBE No.101/2009 on the subject on recommendation of the Sixth Central Pay Commission-Modified Assured Career Progression Scheme (MACPS) for Railway employees provides in paragraph 9 that "9. 'Regular service' for the purpose of the MACPs shall 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. Service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning..." Further, for counting the period of temporary and casual service for the purpose of the said 'regular service' for the benefit of MACP has been under question and in this regard the latest clarification as made by the Railway Board vide RBE No.33/2021 dated 30.04.2021 states that the temporary service rendered does not count for any other purposes than pensionary benefits. Even if the retrospective effect of this clarification is questioned, the impugned order has been passed as per the RBE prevailing at that time on the issue with regard to the service condition of the applicant and even if the full period of temporary status is counted from 15.11.1984, the applicant does not complete 30 years of service till his retirement on 30.06.2012. Thus, we do not find any merit in the claim of the applicant and the same is liable to be dismissed as such.

10. Accordingly, the O.A. stands dismissed. All associated M.A.s also stand disposed of. No costs.