
(2020) 01 CAT CK 0007

In the Central Administrative Tribunal

Case No : Original Application No. 3191 Of 2014, Miscellaneous Application No. 2742 Of 2014

Vinod Bihari Singhal

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 03-01-2020

Acts Referred:

Citation : (2020) 01 CAT CK 0007

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : P.S. Khare, H.P. Chakavorty, Krishan Kant Sharma, V.S.R. Krishna

Final Decision : Dismissed/Disposed Of

Judgement

Mohd. Jamshed, Member (A)

1. The applicant was appointed as Apprentice Bridge Inspector (BRI) (Gr. - III) on 30.-07.1992. As stated in the OA, he completed his Apprenticeship Training and earned annual increments during this period. He was posted to work as BRI (Gr. III) w.e.f. 1996. Benefit of 1st financial upgradation was granted to the applicant under MACP Scheme w.e.f. 2009. He submitted representation dated 23.03.2014 for grant of 2nd MACP as due and admissible to him on completion of 20 years w.e.f. 01.07.2014. As no action was taken on his representation, another representation was submitted by him on 06.05.2014. The respondents vide their communication dated 27.06.2014 rejected claim of the applicant for grant of 2nd MACP w.e.f. 01.07.2014. Aggrieved by this the applicant has filed present OA seeking following reliefs:-

"(a) Quash and set aside the impugned order dated 27.06.2014;

(b) Issue directions to the respondents to grant 2nd financial upgradation to the applicant in Pay Band 9300-34800 with GP 4800/- as due w.e.f. 01.07.2014.

(c) Pass any other order/orders as this Hon'ble Tribunal may deem fit and

appropriate."

2. The applicant contends that he was appointed as Apprentice BRI (Gr. III) through Railway Recruitment Board (RRB) in direct entry grade of Rs. 1400-2300 (pre-revised) with stipulation that he will have to undergo two years Training. He has undergone the required Training during this period and he also earned annual increments. Subsequently, he was granted 1st financial upgradation under MACP Scheme on completion of 10 years of regular service in July, 2004 and, thus, he is seeking 2nd financial upgradation as due and admissible to him on completion of 20 years of service in 2014 and non-grant of 2nd MACP to him is in violation of the conditions laid down in the MACP Scheme.

3. Respondents vide their letter dated 27.06.2014 advised the applicant that as he was posted as BRI w.e.f. 26.07.1996, in terms of instructions contained in Railway Board's letter dated 01.04.2010 his pre-appointment training shall not be taken into reckoning as regular service for granting benefit under MACP scheme.

4. Respondents in their counter affidavit have opposed the OA stating that after being selected through RRB, the applicant was required to undergo Training vide letter dated 27.06.1992. On completion of Training, a written test was conducted to adjudge the suitability of the candidate for the post of JE (Bridge). Having cleared the said examination he was posted as BRI (Gr.-III) w.e.f. 30.07.1996 and, accordingly, date of his regular appointment is 30.07.1996. The applicant was, thereafter, granted 1st MACP w.e.f. 01.09.2008 in terms of Railway Board's instructions. Thereafter, the applicant was promoted to the post of SSE/Bridge vide order dated 25.09.2014. The applicant was ineligible for grant of 2nd MACP w.e.f. 01.07.2014 not having completed 20 years of regular service.

5. In the rejoinder filed by the applicant, the points raised in the OA have been reiterated primarily basing his claim of completing his training of two years in the year, 1994 and not in 1996.

6. We heard Mr. P.S. Khare with Mr. H.P. Chakraborty, learned counsel for the applicant and Mr. Krishan Kant Sharma and Mr. V. S. R. Krishna, learned counsel for the respondents.

7. The applicant was selected through RRB and on completion of necessary formalities, he was directed to undergo training vide letter dated 27.06.1992. The Office order clearly indicated that during this period the trainee shall be provided monthly stipend along with Dearness Allowance (DA). The applicant continued the Training as prescribed and on completion of the said Training, before being posted as JE/Bridge he had to undergo a written test to adjudge his suitability for the post of JE/Bridge in terms of order dated 26.07.1996. On clearing the said examination, he was posted as JE/Bridge under Deputy Chief Engineer in grade Rs. 1400-2300 w.e.f. 30.07.1996. This has also been taken as his date of appointment to the regular post.

8. The service record also indicates that on completion of his Training he has been posted on regular post w.e.f. 30.07.1996. The applicant has also submitted a copy of the service record for the year 1992-1996, indicating that he was paid increments during his Training period. As argued by the learned counsel for the respondents his claim is not tenable as increase in his stipend during the Training period was not due to increments, but DA which was stipulated in his Appointment and Training letter dated 27.06.1992.

9. Applicant in the OA has also claimed that he got his first financial upgradation under MACP on completion of 10 years of regular service in July, 2004. This has been categorically denied by the respondents in their counter affidavit submitting that the applicant was granted his financial upgradation under MACP Scheme w.e.f. 01.09.2008 and not from July, 2004 which is incorrectly claimed by him in the OA. The applicant has also not challenged the same. His representations dated 20.03.2014 and 06.05.2014 also surprisingly do not indicate, if he was granted his 1st financial upgradation under the MACP Scheme w.e.f. July, 2004. He has only claimed that the period of 20 years for 2nd Financial upgradation should be counted from 1994. It is thus obvious that there has been misrepresentation of facts by the applicant in the OA regarding grant of 1st financial upgradation w.e.f. 2004.

10. The respondents have replied to the representation made by the applicant vide letter dated 27.06.2014 (Annexure A-1), which reads as under:-

" As per details referred in your letter under reference, it is clear that Shri Vinod Bihari Singhal has been posted as BRI w.e.f. 26.07.11996 after successful completion of training period. As per instructions contained in Board's letter dated 01.04.2010 (copy enclosed) pre-appointment training shall not be taken into reckoning as regular service for granting benefit under MACP scheme."

11. Railway Board's letter regarding treatment of Training period has been enclosed as Annexure R-VI. It reads as under:-

"With reference to the above mentioned letter, it is stated that in terms of Para-9 of Board's letter dt. 10.06.2009. It is stipulated that service rendered on adhoc/ contract basis before regular appointment or pre-appointment training shall not be taken into reckoning as regular service for granting benefit under MACP Scheme. Instructions on MACPS are categorical and may be strictly adhered to."

12. It is, thus, obvious that the applicant was posted as Trainee in 1992 and was granted DA as applicable in addition to the stipend. The period of regular service has been reckoned from the year, 1996 after his posting as JE/Bridge on having successfully clearing the written test after Training. He was granted the benefit of 1st MACP w.e.f. 01.09.2008 with GP-4200. He was, therefore, not granted the benefit of 2nd MACP w.e.f. 2014 as he was ineligible. In the meanwhile vide letter dated 25.09.2014, the applicant was promoted from JE to the post of SSE in Pay band 9300-34800 with GP-Rs./ 4600 w.e.f. 01.11.2013.

13. The benefit of MACP is to be granted only from the date of regular service and the period of pre-appointment training is not to be reckoned in terms of Railway Board's instructions. In view of the above, we do not find any merit in the OA and the same is, accordingly, dismissed. Pending MAs, if any, shall also stand disposed of. There shall be no order as to costs.