T Pages

43

115/2017

पूर्वोत्तर रेलवे

कार्यालय
महाप्रबन्धक (कार्मिक)
गोरखपुर।

ई0पी0न0 E-3-21
कमांक- 115 /2017
सं0 ई '234/2/Pt-21/IV(ए एसीपी) दिनांक 29-06-2017
सचिव/ महाप्रबन्धक
सचिव/ अपर महाप्रबन्धक
सभी विभागाध्यक्ष
सभी मण्डल रेल प्रबन्धक
सभी कार्मिक अधिकारी
सभी मुख्य कारखाना प्रबन्धक
सभी अतिरिक्त मण्डलाधिकारी/स्थापना
पूर्वोत्तर रेलवे।

विषय:-अनुकूल निर्णय की सूचना के आदान प्रदान के सम्बन्ध में

रेल बोर्ड के पत्र संख्या पीसी-V/2014/सीसी/मिस दिनांक 14.06.2017 की अंग्रेजी प्रतिलिपि सूचना, मार्गदर्शन एवं आवश्यक कार्यवाही हेतु संलग्न कर प्रेषित की जा रही है।

संलग्नक/यथोपरि

29.06.17
(ए0 के0 सिंह)
उपमुकाधि/अराज
कृते महाप्रबन्धक/कार्मिक

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-
1- मान्त्री/एनईआरटीवी मजदूर यूनियन/गोरखपुर - 40 प्रतियों में।
2- मान्त्री/प्रमोटी अधिकारी संघ/पूउरे/गोरखपुर - 02 प्रतियों में।
3- मान्त्री/रेलसुब एशोसियेशन/पूउरे/गोरखपुर - 02 प्रतियों में।
4- पूर्वोत्तर रेलवे प्रथम श्रेणी उपेकारी संघ/गोरखपुर - 01 प्रति में।
5- मान्त्री/एससी/एसटी एवं ओबीसी एशोसियेशन/गोर0-02 प्रतियों में।
6- कार्याधी/एमपीपी को वेबसाइट पर अपलोड हेतु - 01 प्रति में।

29.06.17
कृते महाप्रबन्धक/कार्मिक

2
115/2017

16 JUN 17

GOVERNMENT OF INDIA/भारत सरकार
MINISTRY OF RAILWAYS/रेल मंत्रालय
(RAILWAY BOARD) रेलवे बोर्ड

PC-V/2014/CC/Misc

New Delhi Dt. 14/06/2017

The General Manager (P)
All India Railways /PU's

Sub: Sharing of information regarding favourable judgment.

In continuation to Board's letter of even no. dt 18.04.2017 placed find enclosed copy of an order dt. 27.10.2016 of Hon'ble CAT/Lucknow in O.A. No. 332/00046/2015 (G. P. Bhugra Vs UOI & Ors). decided in favour of Railway Administration. In this case the applicant had claimed for implementation of MACP Scheme from 01/01/2006 instead of 01/09/2008 but the same has been dismissed by the Hon'ble Tribunal vide its order dated 27/10/2016 rejecting the claim of the applicant.

467

2. It is advised that the aforementioned orders of the Hon'ble Tribunal may please be brought to the notice of all the concerned including the officials of the Division with instructions to ensure its effective utilisation while contesting the cases involving identical issue.

Please acknowledge the receipt of this letter.

DA: As above

(N.P Singh)
Dy. Director, Pay Commission-5
Railway Board

Copy to: FA&CAO's ; All Indian Railways/PU's

R 20.06.2017

E:\DDPC-V\DDPC-V-Misc\Sharing of Favourable Judgments.docx

3
115/2017

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ORDER RESERVED ON 26.10.2016
ORDER PRONOUNCED ON 27.10.2016

PRESENT
HON'BLE MS. JAYATI CHANDRA MEMBER – A
HON'BLE R. MURTAZA ALI, MEMBER – J

Original Application No332/00046/2015

Govind R. Bhugra, aged about 6[illegible] years, Son of Sri N. D. Bhugra, resident of [illegible] 43 1 Rajajipuram,Lucknow.

.....Applicant

By Adv: Applicant in Person

VERSUS

1. Union of India, through its General Manager, Ministry of Railways, Government of India New Delhi.
2. Director General, Research Designs & Standards Organization (R.D.S.O.), Lucknow.
3. Secretary Ministry of Railways Government of India New Delhi.

..... Respondents

By Adv: Shri B. B. Tripathi

ORDER

BY HON'BLE R. MURTAZA ALI, MEMBER – J

Through this OA filed under Section 19 of the Administrative Tribunals Act 1985, the applicant seeks following reliefs –

> *"(i) Quash the impugned order of dated 20.5.2014 passed by opposite party No. 3, contained as Annexure No. 1 to this Original application and further be pleased to direct the opposite parties to consider and grant the 3rd financial upgradation under the provision of MACPs Scheme to the applicant, by implementing the said Scheme w.e.f 1.1.2006 instead of 1.9.2008 and pay the all pensionary benefits on said basis*

(b) *Pass any other s itable order or direction which this Hon'ble May deem, fit, just and proper under the circumstances of the cas e in favours of petitioner.*

(c) *Allow the presen claim petition of the petitioner with Costs."*

2. The brief facts of the c se are that the applicant was initially appoi ted on the post of Ste ographer Grade II in the Ministry of Railwa ys on 5.1.1971. It is st ted that as per recommendation of 5th Ce tra Pay Commission, financial up gradation in the next higher g ade pay was availa ble to those employees who had compl te 12 years continuou s service in the same grade and not more t an two financial upgra dation were available in the entire career. On the recommendati on of 6th CPC, the Government of India had modified the up g adation scheme and introduced MACP s cheme by which thre e financial upgradations at the interval o 10,20 and 30 years of continuous regular service have been ma de admissible. The sa d MACP scheme has been made operatio al w.e.f 1.9.2008. The applicant was allowed two financial up gradation as per ea lier ACP Scheme and he retired on 30.9.2 10 after completing 3 years and 9 months service. As the MAC scheme was made ef ective w.e.f. 1.9.2008, he could not avail the benefit of 3rd fin ncial up-gradation admissible under MA CP scheme. He mad several representations and requested the respondents t implement the MACP scheme w.e.f. 1.1 2006 instead of 1.9.2 08, but his representation has been reje ed vide impugned or er dated 20.5.2004 (Annexure-1).

3. In the counter reply, filed on behalf of the respondents No. 1, 3 and 4, the service record of applicant has not been disputed. It has further been stated that the Railway Board had decided to grant two financial upgradation under ACP scheme to Group 'B', Group 'C' and Group 'D' employees on completion of 12 years and 24 years of regular service and ACP scheme was made effective w.e.f 1.10.1999. The applicant was granted second financial up-gradation payable after 24 years of service under ACP scheme in the pay scale of Rs. 10000-15200/- w.e.f. 1.10.1999 and since he has already retired on 30.9.2007, the benefit of MACP scheme could not be extended to him as the MACP scheme was implemented w.e.f. 1.9.2008. It was also provided that the MACP scheme shall be applicable w.e.f. 1.9.2008 and the financial up-gradations as per earlier ACP scheme could be granted till 31.8.2008. It is also stated that the MACP scheme is in the domain of public decision of Government for the purpose of providing relief to the employees who are genuinely stagnating and facing hardship due to lack of adequate avenue and the sanctity of cut off date prescribed by Government for the purpose of implementation of the said policy decisions have been held valid by the Hon'ble Supreme Court in the case of D. S. Nakara and Ors. Vs. UOI and Ors reported in 1983 (1) SCC 305 and Krishana Kumar Vs. U.O.I and Ors reported in JT 1993 (3) SC 173.

4. In the rejoinder, the applicant reiterated the averments made in the O.A. and further stated that as most of the recommendations of 6th Central Pay Commission have been

implemented w.e.f 1.1.2006 and therefore, MACP scheme should also be implemented w.e.f. 1.1.2006 instead of 1.9.2008.

5. Heard the applicant in person and learned counsel for the respondents and perused the record.

6. The applicant argued that all the recommendations of 6th Pay Commission were implemented w.e.f. 1.1.2006, but the MACP scheme has wrongly been implemented w.e.f 1.9.2008 and the respondents had no right to change the date of implementation of recommendation of MACP scheme.

The learned counsel for respondents argued that the fixing of cut of date for enforcement of MACP scheme is a policy decision of Government and it has been held by the Hon'ble Supreme Court in the case of D. S. Nakara (Supra) and Krishana Kumar (Supra) that the cut off date prescribed by Government for the purpose of implementation of policy decisions is valid. It has also been contended that the issue regarding implementation of MACP scheme w.e.f. 1.1.2006 was discussed and considered in the Joint Committee on MACP and it was observed that while changing the date of implementation of MACP scheme from 1.9.2008 to 1.1.2006 may be beneficial for certain employees, but other employees could be at disadvantage thereby entailing huge recoveries from them.

8. It is pertinent to mention here that the benefit of financial up-gradation provided under earlier ACP scheme was granted till 31.8.2008 and thereafter, the benefit of MACP scheme was

116/2017

extended w.e.f. 1.9.2008. As the benefit of earlier ACP scheme was available to the employees till 31.8.2008, the benefit of MACP scheme could not be implemented w.e.f. 1.1.2006. Thus we are of the view that it is a policy decision of Government to fix the date of implementation of MACP scheme which is inconsonance with the ratio laid down by the Hon'ble Supreme Court in the case of D. S. Nakara (supra) and Krishana Kumar (Supra). We do not find any reason or justification to interfere with the date of implementation of MACP scheme which was determined on the recommendation of expert joint committee on MACP.

9. Accordingly, the O.A. is dismissed. No order as to costs.

(Dr. Murtaza Ali)
Member (J)

(Ms. Jayati Chandra)
Member (A)

vidya

27-10-2016
Date of Order 27/10/16
Date of Preparation
Date of Dispatch

Section Officer
Central Administrative Tribunal
Lucknow Bench
Lucknow
01-11-2016