

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BECH
Original Application No.120/2022**

Dated this the 1st day of August, 2022

CORAM:

Hon'ble Shri Jayesh V Bhairavia, Member(J)

Hon'ble Dr. A. K. Dubey, Member(A)



1. Shri Arvindbhai L. Prajapati
S/o. Lakshmanbhai Prajapati
Aged 57 years
Working as Sub Postmaster (LSG) at Manjsar GIDC
R/o.: A/7, Vrajbhumi society, Behind Sankar plot,
Ahwa Wagodiya Ring Road, Vadodara – 390 019.

... Applicant

(By Advocate Ms. S S Chaturvedi)

V/s.

1. Union of India
Notice to be served through
Chief Post Master General,
Khanpur, Ahmedabad – 380 001.
2. Supdt. of the Post offices,
Vadodara West Division, Vadodara – 390 002.

... Respondents

(By Advocate Mr. H D Shukla)

ORDER (ORAL)

Per: Hon'ble Dr. A. K. Dubey, Member (A)

1. Aggrieved by recovery on account of MACP upgradation with effect from 21.10.2013 which, as per respondent's claim, was wrongly given, the applicant has filed this OA seeking stay on recovery and regularizing the 3rd financial upgradation w.e.f. 21.10.2013.
2. The case of the applicant is briefly that after getting into service as postman in 1988, he got his first promotion to the post of Postal

Assistant in 1993. In 1999, the ACP scheme came, under which the officials who did not have any promotion in 12 years after entry into service, would qualify for ACP. Second financial upgradation was to come on 24 years of service. However, in supersession of ACP scheme, MACPs came w.e.f. 01.09.2008 whereunder, financial upgradations were envisaged on completion of 10, 20 & 30 years, subject to the conditions specified. The applicant received 2nd MACP w.e.f. 01.09.2008. The third MACP benefit was given w.e.f. 20.10.2013 vide letter dated 23.08.2021 (Annexure A/1). But now the respondents claim that the third MACP benefit would not accrue from 20.10.2013 and have started recovery which the applicant is challenging in this OA.



3. Respondents have filed the reply denying applicant's averments and stating that after entry into service in 1988 as postman, the applicant received promotion as Postal Assistant in 1993. After the MACPS was introduced w.e.f. 01.09.2008 according to which, the applicant was entitled to second MACPS benefit w.e.f. 01.09.2008 as he completed 20 years of service on that date and after 1993, had not received any upgradation. Thus, from the second MACPS given on 01.09.2008, the applicant qualifies for 3rd upgradation only in 2018, as per the stipulation in OM dated 22/10/2019 (Annexure R/2). Respondents aver that the DPC had erroneously granted 3rd upgradation w.e.f. 21.10.2013 which was scrutinized in audit and accordingly, the over payment had to be recovered. DPC meeting was held on 29.07.2021 and the audit objection came in the letter dated 18/20.01.2022 i.e., after about six months. The reply contends that the applicant was verbally informed by the APM accounts about the impending recovery of Rs. 409360/- @ Rs. 10000/- per month. The reply refutes the contention of the applicant about calculation of eligibility period; it says that interpreting that 21.10.2013 as the date for third MACPS, is wrong and misleading because it does not follow from the scheme.

4. The matter came up for final hearing today. Learned counsel for the applicant reiterated contentions and placed reliance on order of Principal Bench in OA No. 1288/2014 dated 23.05.2016 wherein the order of Ernakulam Bench in OA No. 905/2012 was agreed with in so far as the third upgradation under MACPS was calculated at 20 years from the first promotion and in its ratio, illustration in para 28 A (i) (ii) was referred to.

- 4.1 Learned standing counsel on the other hand submitted that the facts and circumstances of the Ernakulam Bench's case were different and not applicable here. He contended that respondents' action was in conformity with the scheme and the OM dated 22.10.2019.



5. In the facts and circumstances of this case, the order of Ernakulam Bench in our view, is not applicable in this case. Here the calculations of the period envisaged under MACPS are rather straight. The applicant entered into service on 02.04.1988 and got promoted as Postal Assistant on 04.10.1993. ACP came in 1999. MACPS came into effect from 01.09.2008 and the applicant got upgradation on that date. This was his second upgradation, after counting 20 years from the date of entry into service and taking the promotion in 1993 into account. Vide stipulation in Para 1 of the MACPS these financial upgradations are available whenever a person has spent 10 years continuously in the same grade pay without any promotion or upgradation. It is obvious that the applicant received financial upgradation on 01.09.2008 and would qualify for next (third) upgradation only in 2018 on completing 10 years from 01.09.2008 or completing 30 years in April 2018 as specified in illustration in para 28 (A) (i) (ii) read with the stipulation in para 1 of OM dated 22.10.2019 (Annexure R/2) as clarified by the respondents.
6. In this factual matrix and the rule position, we do not consider necessary to intervene in the matter.

In view of the above discussions the OA stands dismissed; MA if any pending also stands disposed of. No order as to cost.

(A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)

PA

