

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/1233/2015

HYDERABAD, this the 16th day of March, 2022

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member



K Yellaiah, S/o Mallaiah,
Aged about 65 years, Retired Sub-Postmaster,
LSG/Sub-Post Office, Manthani, Peddapalli Division,
R/o. H.No. 1-140, Tadikal(Village)- 505 474,
Peddapalli Division, District Karimnagar.

...Applicant.

(By Advocate: Mr. B Gurudas)

Vs.

1. The Union of India, rep. by
The Director General, Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-1.
2. The Chief Postmaster General,
A.P. Circle, Hyderabad.
3. The Postmaster General,
Hyderabad Region, Hyderabad.
4. The Director of Postal Services,
O/o. The Postmaster General,
Hyderabad Region, Hyderabad.
5. The Superintendent of Post Offices,
Peddapalli Division, Peddapalli- 505 172,
District Karimnagar.

....Respondents.

(By Advocate: Mr. P Krishna, Sr.PC for CG)

ORAL ORDER
(As per Hon'ble Mr. Ashish Kalia, Judl. Member)

This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:



“That this Hon'ble Tribunal may be pleased:

- a) To call for the records pertaining to the impugned order No.B1-RTI/14 dt. 07.11.2014, in which it is categorically stated that no action has been taken by the Respondents on the representations made and refusal to provide the relevant information, rejecting the claim of the applicant for considering for grant of MACP financial benefits and set aside the impugned order No.B1-RTI/14 dt. 07.11.2014 for not granting MACP financial upgradations on completion of 30 years of service without considering his claim on fictitious grounds declaring the same as arbitrary, illegal, unwarranted, misconceived and in violation of Articles 14 & 16 of the Constitution of India;*
- b) To direct the respondents to grant financial upgradations of MACP Scheme on completion of 30 years of service, with all the consequential benefits of the MACP Scheme;*

And be pleased to pass such other order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

2. The applicant was initially appointed as Postal Assistant on 19.07.1974. He has been given first upgradation under TBOP Scheme on 23.07.1990 and second upgradation under BCR Scheme on 01.04.2007. In the year 2003, a police complaint was made against the applicant and Crime No.104/2003(later numbered as CC No. 711/2008) was booked against him. As such, the Hon'ble Court of Additional Judicial Magistrate of First Class, Huzurabad, declared that the applicant is not guilty vide orders dt. 27.01.2014. It is submitted that consequent upon recommendations of VIth Central Pay Commission, the financial upgradations under MACP Scheme was introduced w.e.f. 01.09.2008. The promotion granted under TBOP was held and, later declared as

financial upgradation by the respondents and not treated as promotion. Therefore, the promotion given under TBOP was withdrawn. The grievance of the applicant is that he is entitled for third financial upgradation on completion of 30 years of service which is not given by the respondents. The applicant has submitted representation dt. 27.05.2014 but there was no response from the respondents. He sought information under RTI Act, 2005 vide application dt. 09.10.2014 and, the respondents, vide order dt. 07.11.2014, replied stating that no action has been taken on the representation of the applicant without assigning reasons for such inaction. Aggrieved over the same, the applicant has approached this Tribunal for redressal of his grievance.



3. Notices were issued. The respondents have filed a detailed reply and as under:

“2(c). The criminal case was booked in Keshavapatnam Police Station under Crime No. 104/2003 mentioning the name of the applicant as A1 Criminal. The police case against the applicant was not related to the department, but due to his alleged involvement in a cheating case in his personal capacity. The criminal case was filed in the Hon’ble Court of Additional Judicial Magistrate of 1st Class Huzurabad and the applicant was acquitted from the offence in the judgment pronounced by the Court on 27.01.2014. By the time the Court pronounced the judgment, the applicant was retired from service on superannuation on 30.06.2009. Though the applicant rendered 35 years of service in the department, he was given only one financial upgradation under TBOP Scheme due to the pending criminal case.

6. In reply to the averment in para No. 4(4) of the OA, it is submitted that the applicant was considered for norm based LSG promotion and worked in that cadre from 02.11.2007. He was given financial upgradation under TBOP Scheme w.e.f. 23.07.1990. The argument of the applicant that he is eligible for first financial upgradation from 19.07.1984 is not tenable as the MACP Scheme was effective from 01.09.2008. For further promotions, his case was not considered as the criminal case was pending at that time and he was given financial upgradation under BCR Scheme w.e.f. 01.04.2007 vide this Office Memo dt. 21.09.2015. His further promotion under MACP will be decided by the Departmental Screening Committee and it will take some more time. It is a fact that the applicant has submitted a representation

dt. 27.05.2014 to consider the case of MACP financial upgradation. There was no intentional delay. The applicant was given financial upgradation after following due procedure i.e. forming Departmental Screening Committee.”

4. Heard the counsels for the parties and perused the pleadings on record.



5. The short issue raised by the applicant is that whether he is entitled for third upgradation or not. In terms of MACP Scheme, the applicant is entitled for third upgradation w.e.f. 01.09.2008 but the department was estopped from granting the same to the applicant because the criminal case was pending. But, in the year 2014, the criminal case was decided in favour of the applicant and he has been acquitted. It is also admitted by the respondents that the criminal case was decided. In view of this, the respondents are directed to pass orders for consideration of grant of third financial upgradation to the applicant in the shape of MACP w.e.f. 01.09.2008. This exercise shall be completed within a period of 90 days from the date of receipt of certified copy of this order.

6. With the above directions, the OA is allowed. No order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVEMEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/Ram/