

का.प्र.सं. १०००
कार्यालय
महाप्रबंधक / कार्मिक
हाजीपुर

RBENo.-

dated: 19/6/15

No. E/MISC 01 ECR/M 00

1. CAO(Con)/उत्तर एवं दक्षिण/पटना।
2. सगी PHOD/CHOD, पूमोरे, हाजीपुर
3. DRM/पूमरे/मुगलसराय, दानापुर, धनबाद, सोनपुर एवं समस्तीपुर।
4. मुख्य कार्मिक अधिकारी/पूमरे/हाजीपुर।
5. मुख्य कार्मिक अधिकारी/प्रशासन/पूमरे/हाजीपुर।
6. मुख्यालय के सभी कार्मिक अधिकारी।
7. CWM/पीडी/मुगलसराय, यात्रिक कारखाना/समस्तीपुर।
8. Sr. DPO/पूमरे/मुगलसराय, दानापुर, धनबाद, सोनपुर एवं समस्तीपुर।
9. उप महाप्रबंधक/विधि/पटना।
10. प्राचार्य/क्षेत्रीय रेल प्रशिक्षण संस्थान/मुजफ्फरपुर एवं मूली।
11. सभी मुकार्याधी/कार्याधी/पूमरे/हाजीपुर

विषय / Sub: *Sharing of information regarding favourable judgement.*
In letter no. PC-V/2014/CCT/MISLdt

विषय / Sub: Shoring of intermediate
judgment.
संदर्भ / Ref: Rly. Bd's letter no. PC-V/2014/CC/MISL dt 28/5/15

संदर्भ/Ref: Rly. 245

विषयांकित से संबंधित संदर्भित पत्र की छायाप्रति सूचना, मार्गदर्शन एवं अग्रोत्तर आवश्यक व नगरवाई हेतु प्रेषित की जा रही है।

The above referred letter on the subject matter is being forwarded here with for information please.

A copy of above referred letter on the subject is being forwarded for your information, guidance and needful onward action please.

संलग्नकः यथोपरि ।

DA : As above.

वकाधि / ११ दिवस तक कलिंगा
कृते महाप्रबन्धक / कार्मिक / हाजीपुर

प्रतिलिपि सूचनार्थ, मार्गदर्शन एवं आवश्यक कारवाई हेतु प्रेषित :
[निम्नस्थान] / प्रमोद / हाजीपुर ।

- लिपि सूचनाथः, नगरीदर्शन
1. महासचिव / ईसीआरकेयू / पूमरे / हाजीपुर ।
 2. महासचिव / एस0सी0 / एस0टी0 एशोसिएट्स / पूमरे / हाजीपुर ।
 3. जहाङ्गीर (धर्मपीठ) / डीएन / धर्मपीठ / पूमरे / हाजीपुर ।

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

(4)

PC-V/2014/CC/Misc

New Delhi Dt. 28-05-2015

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

Sub: Sharing of information regarding favourable judgment.

In continuation to Boards letter of even no. dt 28/5/2015 please find enclosed an order dt. 10/07/2014 of Hon'ble CAT Chandigarh in O.A No. 1146-PB-2012(Jagdamba Prashad & Ors Vs. UOI & Ors) decided in favour of Railway Administration. The applicant involved in this case belong to pharmacist cadre and had claimed grant of financial upgradation under ACP/MACP Scheme ignoring his promotion/placement in the Grade Pay of Rs 4200. The Hon'ble Tribunal after deliberating upon all the relevant aspects and taking cognizance of Board's letter dt 20/04/2011 No.(PC-V/2009/ACP/2) have dismissed the OA in favour of Railway Administration.

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 Divisions with instructions to effectively utilise this order while contesting the cases involving identical issue.

Please acknowledge the receipt of this letter.

DA: As above

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

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

10.6.15
816/15

A.No. 1146-PB-2012

1

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH

O.A.No.1146-PB-12

Orders pronounced on: **10.07.2014**
(Orders reserved: 29.05.2014)

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &**
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)

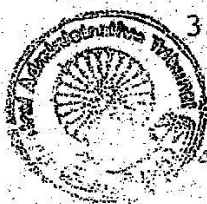
Jagdamba Prashad S/o Jawala Prashad retired Chief
Pharmacist Ferozepur Divisional Head Quarters of Indian
Railways Ferozepur R/o 592 Railway Colony, Ferozepur.

Applicant

By : None.

Versus

1. Union of India through its General Manager, Northern
Railway, Baroda House, New Delhi.
2. Divisional Rail Manager, Northern Railways, Ferozepur
Division, Ferozepur.
3. Divisional Personal Officer/Chief Personal officer,
Northern Railways, Ferozepur Division, Ferozepur.
4. Railway Board, Ministry of Railways, Government of
India, Rail Mantralaya, New Delhi through its Chairman.



By : Mr. Yogesh Putney, Advocate.

Respondents

1. Whether the Reporters of local papers may be allowed to
see the Judgment? ✓
2. To be referred to the Reporter or not? +

He

A.No. 1146-PB-2012

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CHANDIGARH BENCH

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Jagdamba Prashad S/o Jawala Prashad retired Chief
Pharmacist Ferozepur Divisional Head Quarters of Indian
Railways Ferozepur R/o 592 Railway Colony, Ferozepur.
Applicant.

By : None.

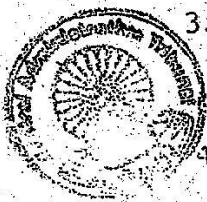
Versus

1. Union of India through its General Manager, Northern
Railway, Baroda House, New Delhi.

2. Divisional Rail Manager, Northern Railways, Ferozepur
Division, Ferozepur.

3. Divisional Personal Officer/Chief Personal officer,
Northern Railways, Ferozepur Division, Ferozepur.

4. Railway Board, Ministry of Railways, Government of
India, Rail Mantralaya, New Delhi through its Chairman.



By : Mr. Yogesh Putney, Advocate.

Respondents

1. Whether the Reporters of local papers may be allowed to see the Judgment? ✓
2. To be referred to the Reporter or not? +

He/

Rs.5500-9000 were given Grade Pay of Rs.9300-34800, after Merger of both posts and designation as Pharmacist (Non-Functional Grade) was given. This was to be given to a Pharmacist in Entry Grade, on completion of 2 years service in grade pay of Rs.2800/-. The posts of Chief Pharmacist in the pre-revised scale of Rs.6500-10500 were placed in Grade Pay of Rs.4600 and in case a post already existed in the pre-revised scale of Rs.7450-11500, the posts being upgraded from the scale of Rs.6500-10500 were to be merged with the post in the scale of Rs.7450-11500. The word "promotion" was replaced with the word "placement" vide order dated 5.8.2010. Vide order dated 14.9.2010, the applicant along with others was granted 3rd MACP w.e.f. 1.9.2008 in the grade pay of Rs.5400/-. However, vide notice dated 3.11.2011 (A-2) the MACP granted to the applicant was withdrawn and he was granted 3rd MACP w.e.f. 1.9.2008, in grade pay of Rs.4800/-. Against this the applicant made a representation dated 9.11.2011 which was dismissed vide order, Annexure A-2. Hence, this Original Application.

3. The precise claim of the applicant is that withdrawal of 3rd MACP has taken place only in his cadre and other cadres have not been touched at all. Reliance is also placed on a decision of Ernakulam Bench of this Tribunal in

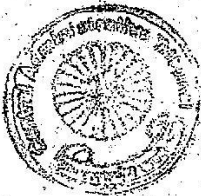


He/-

O.A.No.484/2011 and bunch of cases titled All India Loco Running Staff Association etc. V. Union of India & Others etc. decided on 22.2.2012 (A-7) in which it was held that placement in merged scales would not be taken as a promotion and it has to be ignored for the purpose of MACP. Thus, the applicant deserves to be restored the grade pay of Rs.5400 as 3rd MACP.

4. The respondents have resisted the claim of the applicant by filing a detailed reply. They submit that the Ernakulam Bench has decided the issue qua running staff only and not qua Pharmacist Staff. The Bench was considering interpretation of clause 5 & 8 of MACP which is not in issue in this case. It has also not considered the issue in the light of the clarification issued by the Nodal Ministry as circulated by the Railway Board dated 20.4.2011 where under it was clarified that the placement of pharmacist in Grade Pay Rs.4200/- in Pay Band-2 on completion of two years regular service in the grade pay of Rs.2800/- under Pay Band - 1 (Entry Grade) has to be counted / treated as one up-gradation

under the MACP Scheme. Thus, the claim of applicant amounts to grant of 4th MACP which has rightly been withdrawn. Moreover, the clarification dated 20.4.2011 has not been challenged by the applicant. The upgradation on completion of



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2 years of service in GP Rs.2800 is to be treated as one upgradation under the MACP Scheme and it cannot be ignored. For applicant, the entry grade pay is Rs.2800/-, 1st financial upgradation/MACP in GP Rs.4200/- on completion of 2 years' of service, 2nd MACP in Grade pay of Rs.4600 on completion of 12 years of service in grade pay of Rs.4200 and 3rd MACP in GP Rs.4800/- on completion of 22 years of regular service. Thus, the applicant has got three financial upgradation much prior to 10, 20 and 30 years of service as provided in MACP Scheme. The applicant was appointed on 25.6.1976 in pay scale of Rs.330-560, as revised to Rs.455-700 w.e.f. 1.1.1984 and Rs.1400-2600 w.e.f. 1.1.1986. He was promoted to grade of Rs.1640-2900 w.e.f. 15.11.1994, as revised to Rs.5500-9000 w.e.f. 1.1.1996. He was promoted w.e.f. 19.5.2005 to pay scale of Rs.6500-10500 (merged in the scale of Rs.7450-11500 w.e.f. 1.1.2006). He was allowed 1st financial upgradation w.e.f. 1.9.2008 in GP of Rs.4200, 2nd MACP w.e.f. 1.9.2008 in GPI Rs.4600 and 3rd MACP w.e.f. 1.9.2008, in GP Rs.4800/-. The 4th MACP in Grade Pay of Rs.5400 was withdrawn. Thus, the claim of the applicant merits dismissal.

5. We have heard learned counsel for the respondents and perused the material on the file.

He/

financial upgradation in pay scale of Rs.5400/- which is apparently not due to him and was wrongly granted to him which mistake has now been corrected by the respondents. It is well settled law that the departmental authorities are well within their power and authority to correct a mistake. In 1998

(2) ATJ, P-286 (Jagdish Prajapat Vs. The State of Rajasthan & Others), it was held that a actual mistake can

always be rectified by the departmental authorities. In 2005,

(4) RSJ, 749 (Anand Prakash Vs. State of Punjab) and

1992 (1) SCT, 129; Raj Kumar Batra Vs. State of Haryana, it has been held that as and when a mistake is

detected, the employer is within its right to rectify it. In

(2005) 13 (G. Srinivas Vs. Govt. of A.P. & Ors.) it has been

held that an order passed by mistake or ignorance of relevant

fact can be reviewed by the authority. In (2008) 2 SCC 750

(Union of India Vs. Narendar Singh), it has been held that

mistakes are mistakes and as such can always be corrected

by the authorities. The decisions relied upon by the applicant

do not help them at all in view of the peculiar facts of the case

and the separate pay scales and structure of the Pharmacy

cadre, either on facts or on legal proposition discussed

therein.



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7. For the reasons discussed above, this Original Application is dismissed. Needless to mention that the interim order dated 8.10.2012 shall stand vacated. No costs.



(SANJEEV KAUSHIK)
MEMBER (J)

(UDAY KUMAR VARMA)
MEMBER (A)

Place: Chandigarh
Dated: 10.07.2014

HC*

Certified True Copy/प्रमाणित सत्य प्रतिलिपि

अनुभाग अधिकारी (आप) / Section Officer (Hd. Secy.)

Central Administrative Tribunal

चण्डीगढ़ पीठा / Chandigarh Bench

चण्डीगढ़ / Chandigarh

2017