

**(2025) 12 CAT CK 0001**

**Central Administrative Tribunal**

**Case No:** Original Application No. 330, 00184 Of 2022

Radhey Shyam, PA No. 37127A,  
(M..T.D.) Air Force Bamrauli,  
Allahabad -12

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

---

**Date of Decision:** Dec. 8, 2025

**Acts Referred:**

- Administrative Tribunals Act, 1985 - Section 19

**Hon'ble Judges:** Om Prakash VII, Member (J); Mohan Pyare, Member (A)

**Bench:** Division Bench

**Advocate:** A.D. Singh, Vidyapati Tripathi

**Final Decision:** Dismissed

---

**Judgement**

Om Prakash VII, Member (J)

1. The present O.A has been filed by the applicant under section 19 of the Administrative Tribunal Act, 1985 seeking following reliefs:-

***“(i) Quash the impugned order dated 07.10.2019 passed by respondent No. 4 (Annexure A-1 to this OA in compilation No. I).***

***(ii) Directing the respondents to grant the 3rd upgradation under the MACP scheme on completion of 30 years service and pay the difference of arrear of MACP with 9% interest per annum to the applicant from the date of entitlement to the date of actual payment is being made to the applicant.***

***(iii) Directing the respondents to revise the pension of the applicant as per pay scale of 3rd MACP and pay the difference of arrear of pension with 9% interest per annum from the date of granting the pay scale of 3rd MACP till the date of actual payment is being made to the applicant.***

***(iv) To grant any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.***

***(v) Award the cost of the application in favour of the applicant".***

2. The brief facts of the case are that the the applicant was firstly appointed as a Cleaner on 01.02.1983 and later given a fresh appointment as Driver on 18.08.1986, as shown in his service record. Based on this fresh appointment, the applicant received only two promotions during his service, first CMTD Grade II on 01.04.2001, and second CMTD Grade I on 23.04.2008. He retired on 31.08.2019. The applicant claims that since he received only two promotions, he is entitled to the 3rd MACP, which the respondents have wrongly denied. He also states that another similarly placed employee, Shri K.N. Kushwaha, appointed in 1986, was granted the 3rd MACP. Therefore, the applicant seeks the grant of 3rd MACP along with arrears.

3. The respondents, in their counter affidavit, have averred that the applicant was first appointed as a Cleaner on 01.02.1983 and later promoted as Driver Grade-II on 18.08.1986 through a Departmental Promotion Committee, as shown in his service record. Thereafter, he received two more promotions on 01.04.2001 as CMTD Grade-II and on 13.04.2008 as CMTD Grade-I. Since the applicant has already received three promotions during service, he is not eligible for the 3rd MACP. The respondents further state that the applicant cannot claim parity with Shri K.N. Kushwaha because both employees were appointed in different years and their cases are not distinguishable. Hence, denial of the 3rd MACP is correct, as per the MACP Scheme and OM dated 19.05.2009.

4. No rejoinder affidavit has been filed.

5. We have heard Shri A.D. Singh, learned counsel for the applicant and Shri Vidyapati Tripathi, learned counsel for the respondents and perused the record.

6. Submission of the learned counsel for the applicants is that applicant was appointed as Cleaner in the respondent's department on 01.02.1983. He was reappointed as Driver as would be clear from the service record of the applicant itself. To substantiate this argument, learned counsel for the applicant referred to Annexure A-2 and further argued that in the service record, it is specifically mentioned that change of new appointment as Driver cadre II. Thus, it is argued that for grant of 3rd MACP, applicant's service who has retired on dated 31.08.2019 has to be calculated from the date i.e. 18.8.1986. It is argued that on the basis of aforesaid fresh appointment, he was granted only two promotions first on 01.04.2001 as CMTD Grade II and second promotion on 23.04.2008 as CMTD Grade I. Thus, argued that no third promotion has been made of the applicant. Opinion formed by the respondents denying 3rd MACP is illegal. It is argued that similarly situated employee one Shri K.N. Kushwaha was appointed on 12.8.1986 as CMTD (OG), later he was allowed CMTD Grade II on 08.11.1996 and CMTD Grade I w.e.f. 01.04.2013. Taking into consideration the aforesaid upgradation/ promotion, respondents have allowed 3rd MACP on 01.04.2013 to the similarly situated employee Shri K.N Kushwaha. Referring to the aforesaid fact, it was also argued that since applicant's appointment on the post

of Driver was fresh, thus, denial to the 3rd MACP is illegal. Thus, referring to the aforesaid facts and circumstances of the case and averments mentioned in the OA, learned counsel for the applicant argued that OA be allowed. Respondents be directed to grant 3rd MACP to the applicant also and to pay entire arrear also.

7. In rebuttal, learned counsel for the respondents submitted that appointment of the applicant was made on 01.02.1983 as Cleaner whereas Shri K.N Kushwaha was appointed on 12.08.1986. Cases of applicant as well as Shri K. N Kushwaha are on different footing. No parity in case of grant of MACP can be claimed. Submission raised on behalf of the applicant in this respect is meaningless. Learned counsel for the respondents further argued that applicant firstly appointed on 1.2.1983 as Cleaner, later he was promoted in the year 1986 as Driver by the Department Promotion Committee as would be clear from the service record of the applicant. To substantiate this argument, learned counsel for the respondents also referred to the service record attached with the OA as Annexure No.2 and further argued that it is clearly mentioned at page No. 34 itself that applicant was promoted on 18.8.1986 as Driver Grade II by the DPC held during 12.02.1986 to 18.2.1986. Submission raised contrary to this fact by the learned counsel for the applicant is not acceptable. He has allowed first promotion w.e.f. 18.8.1986, 2nd promotion w.e.f. 1.4.2001 and 3rd promotion w.e.f. 13.4.2008. Although applicant has retired on 31.8.2019 but three promotions have already been allowed to him. Thus, he is not entitled for 3rd MACP. He also argued that only those employees, who have not obtained three promotions during service period, they can only be allowed 3rd MACP. Thus, referring to the entire facts including the provision of OM dated 19.05.2009 argued that there is no illegality, infirmity or perversity in the impugned order and OA being devoid of merit, is liable to be dismissed.

8. We have considered the submissions of both parties and perused the entire record.

9. There is no dispute between the parties that applicant was initially appointed on 01.02.1983 as Cleaner in the respondents' department. Another employee Shri K.N. Kushwaha was appointed on 12.08.1986 as CMTD (CG). Although he has been allowed 3rd MACP w.e.f. 1.4.2013 but his case is entirely different with the facts of the present applicant. In case of MACP, on the strength of facts in respect of the applicant as well as other employee Shri K.N. Kushwaha on the ground of granting of 3rd MACP to Shri K.N Kushwaha (another employee) applicant cannot be allowed 3rd MACP. It is clarified that applicant will be entitled for 3rd MACP only when he has not obtained three promotions and upgradations during tenure of 30 years of service. In the light of the aforesaid facts, scheme promulgated by the Central Government has to be implemented.

10. As has been disclosed in the preceding paragraphs, applicant was initially appointed as Cleaner w.e.f. 1.2.1983. If the service record annexed with the OA as Annexure No.2 is taken into consideration, it is specifically mentioned in it that on 18.8.1986, applicant was promoted to Driver cadre by DPC held during 12.2.1986 to 18.2.1986. If such is the position, applicant's appointment on the post of Driver is by way of promotion held by the DPC constituted by the department. Had he been freshly appointed on the post of Driver, no description regarding holding of DPC is mentioned in the service record. Mere disclosing the fact that "assured the appointment change of new appointment as Driver Grade II" will not change the nature and procedure adopted by the

respondents for promoting the applicant on Driver post". No other documents have been brought on record on behalf of the applicant to show that promotion to the Driver post was not permissible and it could be done by fresh appointment only.

11. For the reasons recorded above, this Tribunal finds that the applicant has already earned three promotions during his service career on 18.08.1986, 01.04.2001, and 23.04.2008. Under the MACP Scheme dated 19.05.2009, an employee becomes eligible for the 3rd MACP only if he has not received three promotions during 30 years of regular service. As the applicant has already availed three promotions, he does not fulfill the eligibility criteria for grant of the 3rd MACP. The claim for parity with another employee, Shri K.N. Kushwaha, is misconceived since the service particulars of both the employees are materially different and no right to parity arises in such circumstances. Accordingly, the reliefs sought in the OA for grant of the 3rd MACP and consequential arrears are rejected.

12. In view of the above, the Original Application is dismissed. No order as to costs. All pending MAs are disposed of.