

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH, CHENNAI**

Original Application No.310/00 713 of 2014

Today, this *Monday* the *24th* day of *Aug* 2015

**CORAM: HON'BLE SHRI K. ELANGO ... MEMBER (J)
HON'BLE SHRI R. RAMANUJAM.... MEMBER (A)**

1. S. Sriraman,
S/o. Shri M.D. Srinivasan,
Aged about 51 years,
Working as UDC in Doordarshan Kendra,
Swami Sivananda Salai, Chennai-5,
Resident of 67/4, Otteri Salai,
Puzhuvakkam, Chennai- 600 091;
2. Ms. Usha Venkatachalam,
W/o. Shri Venkatachalam,
Aged about 51 years,
Working as UDC in O/o. Addl. Director General (SZ),
AIR &TV, Swami Sivananda Salai, Chennai-5,
Resident of G1, RVS Flats, Dr. No. 1, 10th Street,
TANSI Nagar, Valacherry, Chennai- 600 042;
3. Ms. V. Radha,
W/o. Shri R. Venkata Narasimhan,
Aged about 51 years,
Working as UDC in Doordarshan Kendra,
Swami Sivananda Salai, Chennai-5,
Resident of F2, Sharan Flats, Plot 13,
Vallakottar Murugan Street,
Rajamanickam Nagar,
Kilkattalai, Chennai- 600 117;

4. B. Sundaresan,
S/o. Shri N. Balasubramanian,
Aged about 49 years,
Working as UDC in O/o. The Director,
Marketing Division, AIR Campus,
Mylapore, Chennai-4
Resident of G2, Sairaman Flats, O.N 136/
N.N.58/1, TSV Koil Street, Mylapore,
Chennai- 600 004

.....Applicants

[by Advocate: M/s K.M. Ramesh]

Vs

1. Union of India,
Rep. by the Director General,
All India Radio, Prasar Bharati,
Akashwani Bhavan, Parliament Street,
New Delhi- 110 001;
2. The Chief Executive Officer,
Prasar Bharathi,
P.T.I. Building,
Parliament Street, New Delhi-110 001;
3. Additional Director General (P),
All India Radio, Mylapore,
Chennai- 600 004.

.....Respondents

[by Advocate: Mr. K. Rajendran]

ORDER

Per: R. Ramanujam, M(A):-

The applicants who are UDCs in various offices of the respondents have filed this O.A. claiming entitlement to the grant of scale of pay of Rs. 9300-34800/- with Grade Pay of Rs. 4200/- attached to the promotional post of Assistant from the date they completed 20 years of service. According to the applicants, they were beneficiaries of the Assured Career Progression Scheme (ACP) prior to the introduction of the Modified Assured Career Progression Scheme (MACP) following the recommendations of the 6th Central Pay Commission. Under the ACP Scheme, financial up-gradations had been provided for at the end of 12 years and 24 years of service to the level of the next higher post in the hierarchy of the cadre. However, the MACP Scheme provides only for financial upgradation to the next higher Grade Pay or the pay scale recommended by the 6th Central Pay Commission regardless of whether such Grade Pay/ Pay Scale was carried by any post in the hierarchy of the cadre or not. This, the applicants allege, has taken away the benefits that they were already enjoying under the previous ACP Scheme which is not permissible. The applicants rely on the decision of the Chandigarh Bench of the Tribunal in O.A. No. 1038/CH/2010 dated 31.05.2011 which was upheld by the Hon'ble Punjab and Haryana High Court in C.W.P.No.19387/2011 by order dated 19.10.2011. The SLP filed against the said decisions have since been dismissed by the Hon'ble Apex Court.

2. The applicants also submit that the decision of the Chandigarh Bench has been followed by the Principal Bench in O.A. No. 904/2012 dated 26.11.2012 and O.A. No. 864/2014 dated 12.03.2014 as well as by Ernakulam Bench in O.A. 816/2012 dated 29.01.2013. The applicants submitted representations to the

competent authority to grant them relief on identical lines as they were similarly placed as the applicants in the OAs referred to above. However, the respondents have rejected their claim by Memo dated 09.4.2014 on the ground that the judgments in various cases under MACP ordered in favour of individuals could not be applied in general to all the officials unless instructions were issued by the DOPT.

3. The respondents resist the claim principally on two grounds.

i) The provisions of ACP Scheme stand modified by the revised provisions of the MACP by which financial upgradations are allowed at the end of 10, 20 and 30 years of service unlike ACP Scheme where only two financial upgradations were permissible. The MACP scheme clearly provides that financial upgradations shall be granted in the hierarchy of Grade Pay as given in Section 1, Part -A of the first schedule of CCS (RP) Rules 2008. Therefore, the applicants' request for financial upgradation in the hierarchy of the cadre cannot be acceded to;

ii) The orders of the Tribunal in individual cases will only apply to the parties concerned. Unless the relevant O.M. of the DOPT itself is revised, the respondents cannot extend the benefit to all persons similarly placed.

4. Heard learned counsel for the parties and perused the records.

5. It is not in dispute that the applicants have claimed to be similarly placed as those who had obtained relief from the Tribunal in the cases referred to in this O.A. While granting relief to the applicants therein, the Tribunal had interpreted the provisions of Modified Assured Career Progression and come to a

view. It would, therefore, have been in the fitness of things if the respondents had considered the representations in the light of the interpretation made by this Tribunal which now appears to have attained finality. The pleadings do not reflect any challenge made or pending before the Higher Courts on the issues raised therein. It would, therefore, be unjust to say that the same principles cannot be adopted while dealing with the representations of similarly placed persons only for the reason that they were not parties in the relevant cases.

6. The impugned order does not also go into the merits of the submissions made by the applicants and is a summary rejection of their request. Such summary rejection cannot be sustained as valid as it denies the applicant equality and equal opportunities in public services guaranteed by the Constitution. The absence of revised instructions by the DOPT in this regard is no valid ground either as it was for the respondents to take up the matter appropriately with the DOPT or any other competent authority. The impugned memo of the respondents dated 09.4.2014 (Annexure-A/11) is, therefore, quashed and set aside. The respondents are directed to consider the representations of the applicants in the light of the various judgments/orders in similar cases and pass a reasoned and speaking order on their claims within a period of two months from the date of receipt of a copy of this order. In the facts and circumstances of the case, there shall be no order as to costs.