

**Central Administrative Tribunal  
Principal Bench, New Delhi**

**O.A. No. 3354/2017**

**This the 15<sup>th</sup> day of February, 2021**

**(Through Video Conferencing)**

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**



1. Vinod Kumar Passy  
Aged about 63 ½ years  
Retired as Under Secretary in Ministry of External Affairs  
S/o late Sh. S.M. Passy  
R/o 172, Sargodha Apartments  
R/o Sector 7, Plot No. 13, Dwarka, New Delhi 110075.
2. Mahabirsingh Rawat  
Aged about 64 years  
Retired as Under Secretary in Ministry of External Affairs  
New Delhi, S/o late Sh. Ram Singh  
R/o 322 C, J&K Pocket, Dilshad Garden, Delhi 110095.
3. Ashok Kumar  
Aged about 64 years  
Retired as Under Secretary in Ministry of External Affairs  
New Delhi, S/o late Sh. Ram Lal  
R/o D 603 Punchsheel Apartments, Sector 4, Plot No. 24  
Dwarka, New Delhi-110075.
4. N.K. Khulbey  
Aged about 65 years  
Retired as Section Officer in Ministry of External Affairs  
New Delhi, S/o late Sh. K.N. Khulbey  
R/o B-321 A, Sector 26, NOIDA, Gautam Budh Nagar-201301(UP).
5. Navtej Pal Singh Saini  
Aged about 61 years  
Retired as Under Secretary in Ministry of External Affairs  
New Delhi, S/o Sardar Basant Singh  
R/o Flat No. E-105 Punchsheel Apartments  
Sector 4, Plot No. 24, Dwarka, New Delhi 110075.
6. A.M. Khan  
Aged about 62 years  
Retired as Under Secretary in Ministry of External Affairs  
New Delhi, S/o Abdul Mazeed Khan  
R/o Flat No. D-702 Punchsheel Apartments  
Sector 4, Plot No. 24, Dwarka, New Delhi 110075.
7. Yudhistar Pal Singh

Aged about 64 years  
Retired as Under Secretary in Ministry of External Affairs  
New Delhi, S/o late Ramesh Chand Sood  
R/o 88, First Floor, SatyaNiketan, New Delhi 110021.

... Applicants

(By Advocate :Shri J.C. Vashista)

Versus

1. The Foreign Secretary  
Ministry of External Affairs  
South Block, New Delhi-110011.
2. The Secretary  
Ministry of Personnel, Public grievances and Pensions (DOPT)  
North Block, New Delhi-110001.

...Respondents

(By Advocate :ShriSubhashGosai)

### **ORDER (Oral)**

**Justice L. Narasimha Reddy, Chairman:**

The applicants joined the services of Ministry of External Affairs as Lower Division Clerk (LDC) and other posts. Thereafter, they earned promotions to various posts. They have also been extended the benefit of upgradation of pay scale on completion of 4 years of service at a particular stage, which was in the spell between 20 and 30 years of service. They made representations to the respondents with a request to extend the benefit of 3<sup>rd</sup> MACP. Through different communications dated 06.11.2012, 04.06.2013 and 11.06.2013 the applicants were informed that the upgradations of their pay structure on completion of 4 years of service would offset against 3<sup>rd</sup> MACP.

2. This OA is filed challenging the communications dated 06.11.2012, 04.06.2013 and 11.06.2013. The applicants contend that they are entitled to the benefit of 3<sup>rd</sup> MACP on completion of 30 years of service since they did not earn any promotion in the last spell of 10 years. They place reliance on the order passed by the Ernakulam Bench of this Tribunal wherein it was held that upgradation on completion of four 4 years of service cannot be compared to promotion and thereby respondents are under obligation to extend the benefit of 3<sup>rd</sup> MACP.

3. We heard Shri J. C. Vashisht, learned counsel for applicant and Shri Subhash Gosai, learned counsel for respondents.

4. The only issue that arises for consideration in this OA is, as to whether the applicants are entitled to be extended the benefit of 3<sup>rd</sup> MACP. The benefit of extension of career progression was introduced in the year 1999. The ACP scheme, was to the effect that in case an employee does not get promotion in the spell of first 12 years, he would be entitled to be extended the benefit of first ACP, which would be equivalent to the pay scale attached to the next higher post. Similar benefit was

available for the next spell between 12 to 24 years. This scheme was replaced by MACP scheme consequent upon the recommendations of the 6<sup>th</sup> CPC. The difference between the ACP and MACP is that under the MACP the benefit will be extendable in the spells of 10, 20 and 30 years of service. The second aspect is that not only the actual promotion to the next higher post, but also any financial upgradation in the corresponding spells, would offset the relevant MACP,

5. The applicants did not have any issue till they completed 20 years of service. Either they get the promotion or the benefit of the ACP/MACP. They claim the 3<sup>rd</sup> MACP on completion of 30 years of service. The respondents however contend that during the relevant period, the applicants got the benefit of upgradation on completion of three years of service, at a particular stage. The applicants do not dispute that. The issue is whether the upgradation on completion of four years, can offset the MACP.

6. It has already been mentioned that as distinguished from the actual promotion, even a financial upgradation would offset the MACP. The lack of clarity that prevailed on account of the views taken by different High Courts

were set at rest by the Hon'ble Supreme Court in the recent past. It was categorically held that a financial upgradation of whatever during the concerned spells, in the service of the employee would offset the MACP. The impugned orders accord with that.

7. We do not find any merit in the OA and it is accordingly dismissed. There shall be no order as to costs.

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**(AradhanaJohri)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

*lg/mbt/ns/sd*